S. Hrg. 99-515

1985 OMNIBUS TERRITORIES LEGISLATION

HEARING

BEFORE THE

COMMITTEE ON ENERGY AND NATURAL RESOURCES UNITED STATES SENATE

NINETY-NINTH CONGRESS

FIRST SESSION

ON

S. 1441

A BILL TO AMEND THE GUAM ORGANIC ACT, AND FOR OTHER PURPOSES

S.J. Res. 192

JOINT RESOLUTION TO AUTHORIZE FINANCIAL ASSISTANCE FOR THE NORTHERN MARIANA ISLANDS, AND FOR OTHER PURPOSES

H.R. 2478

AN ACT TO AMEND THE REVISED ORGANIC ACT OF THE VIRGIN ISLANDS, TO AMEND THE COVENANT TO ESTABLISH A COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS, TO AMEND THE ORGANIC ACT OF GUAM, TO PROVIDE FOR THE GOVERNANCE OF THE INSULAR AREAS OF THE UNITED STATES, AND FOR OTHER PURPOSES

DECEMBER 3, 1985

Printed for the use of the
Committee on Energy and Natural Resources

U.S. GOVERNMENT PRINTING OFFICE
58-566 O WASHINGTON : 1986

S311-32.

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1985 OMNIBUS TERRITORIES LEGISLATION

TUESDAY, DECEMBER 3, 1985

U.S. Senate,
Committee on Energy and Natural Resources,
Washington, DC.

The committee met, pursuant to notice, at 9:30 a.m., in room SD-366, Dirksen Senate Office Building, Hon. Lowell P. Weicker, Jr., presiding.

Present: Senators Weicker, Hecht, and Bingaman.

Also present: Allen Stayman, professional staff member; and D. Michael Harvey, chief counsel for the minority.

OPENING STATEMENT OF HON. LOWELL P. WEICKER, JR., A U.S. SENATOR FROM THE STATE OF CONNECTICUT

Senator **Weicker**. The Committee on Energy and Natural Resources will come to order.

Today we'll receive testimony on three legislative proposals regarding the territories. These are H.R. 2478, an omnibus measure; S. 1441, regarding the Federal lands on Guam; and Senate Joint Resolution 192 to authorize financial assistance to the Commonwealth of the Northern Mariana Islands.

As many of you know, H.R. 2478 is expected to be passed by the House of Representatives today. We're considering it today before its referral to this committee in order to save time, and possibly to complete action before adjournment of this session of the Congress.

I would like to assure those with an interest in this bill, I'll make every effort to have it acted upon as soon as possible. However, time constraints may preclude final action this session.

It's also my hope to complete action on Senate Joint Resolution 192 during this session of Congress. This proposal would ratify the agreement reached in July between representatives from the United States and the Northern Mariana Islands on a second 7-year period of financial assistance to the islands. Because the agreement was designed to become effective beginning fiscal year 1986, I would like to see that its provisions come into force as the negotiators had intended.

I believe that the agreement provides a carefully crafted framework for the use of these funds, and that any delay in its implementation will disturb this framework and jeopardize its effectiveness.

As you may know, the Senate Appropriations Committee stated that the fiscal year 1986 assistance to the islands will be considered subject to the terms of this agreement, and this is a position which I believe merits our support.

S. 1441 was introduced as a basis for discussion of Federal land policy in Guam. Among the questions which must be considered in such discussion are: How and when shall Federal land needs be determined? Under what terms shall Federal land identified as surplus be disposed of? And to whom shall the benefits of such disposed land go?

In addition to S. 1441, there is the House companion bill H.R. 2884, which has provisions that are more specific in their response to these questions. Accordingly, witnesses today may wish to address their comments to the House bill. In any case, let me assure you of my desire to cooperate with the many groups and Government agencies which have an interest in the issue. We all share the desire to develop a comprehensive policy regarding Federal lands on Guam.

[The texts of S. 1441, S.J. Res. 192, and H.R. 2478 follow:]

II

99TH CONGRESS
1ST SESSION

S. 1441

To amend the Guam Organic Act, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 16, 1985

Mr. McCLURE introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

A BILL

To amend the Guam Organic Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6 of the Guam Organic Act (48 U.S.C. 1422), as amended, is further amended by deleting the period "." at the end of subsection (c) and inserting "; and" and inserting the following new subsection:

"(d) The Governor of Guam shall prepare and submit to the Secretary of the Interior a comprehensive plan for the lands identified in paragraphs (1) and (2) of this subsection. The Secretary of the Interior shall review the plan and transmit such plan, together with his revisions or amendments, if any, to the Governor of Guam for submission to the legislature of Guam for approval. Upon approval by the legislature of Guam, such plan shall govern the use and/or disposal of such lands by the Government of Guam and no change in such plan may be made without the concurrence of the Secretary of the Interior. Not less than thirty days prior to approving any subsequent change to such plan, the Secretary shall notify the Senate Committee on Energy and Natural Resources and the Committee on Interior and Insular Affairs of the House of Representatives of his intention to approve a change, the nature of the change, and the reasons therefore. In consulation with the Governor of Guam, the Secretary of the Interior shall within one year from the date of enactment of this Act, survey the Federal lands in Guam and, with the concurrence of the head of the agency having jurisdiction over or using such land, place all such lands into one of the following categories:

"(1) no longer needed for Federal purposes,

"(2) not presently needed but for which a future need exists, or

"(3) currently needed for Federal purposes.".

○

II

99TH CONGRESS
1ST SESSION

S. J. RES. 192

To authorize financial assistance for the Northern Mariana Islands, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 9, 1985

Mr. McCLURE (by request) introduced the following joint resolution; which was read twice and referred to the Committee on Energy and Natural Resources

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JOINT RESOLUTION

To authorize financial assistance for the Northern Mariana Islands, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of Public Law 94-241 (97 Stat. 1461) is amended—

(1) in section 703, subsection (a), after the words "section 702" add the words "and section 705";

(2) in section 704, subsections (a), (b) and (d), after the words "section 702" add the words "and section 705";

(3) in section 704, delete subsection (c), and redesignate subsection (d) as subsection (c);

(4) after section 704 add a new section 705, as follows:

"SEC. 705. Enactment of this section by the United States Congress and approval by the President shall constitute a commitment and pledge of the full faith and credit of the United States for the payment, as well as an authorization for the appropriation, of $228,000,000 at guaranteed annual amounts of direct grant assistance for the Government of the Northern Mariana Islands for an additional period of seven fiscal years after the expiration of the initial seven-year period specified in section 702, which assistance shall be provided according to the agreement of the special representatives on future United States financial assistance for the Government of the Northern Mariana Island, executed July 10, 1985, between the special representative of the President of the United States and the special representatives of the Governor of the Northern Mariana Islands. The islands of Rota and Tinian shall each receive no less than a ⅛ share and the island of Saipan shall receive no less than ⅝ share of annualized capital improvement project funds which shall be no less than 80 percent of the capital development funds identified in the schedule of payments in paragraph 2 of part II of the agreement of the special representatives."; and

(5) in section 1003, subsection (b), delete "Article VII" and insert in lieu thereof "701–704"; redesignate subsection (c) as subsection (d); and add a new subsection (c) as follows:

"(c) Section 705 will become effective on October 1, 1985.".

○

99th CONGRESS
1st Session

H. R. 2478

IN THE SENATE OF THE UNITED STATES

December 5 (legislative day, December 2), 1985

Received; read twice and referred to the Committee on Energy and Natural Resources

---

AN ACT

To amend the Revised Organic Act of the Virgin Islands, to amend the Covenant to Establish a Commonwealth of the Northern Mariana Islands, to amend the Organic Act of Guam, to provide for the governance of the insular areas of the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 12 of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1593), is amended to read as follows:

"Sec. 12. (a) The people of the Virgin Islands shall have the rights of initiative and recall to be exercised as provided in subsection (b) and subsection (c), respectively.

"(b)(1) An initiative may enact, amend, or repeal any law, except that an initiative shall not be used to repeal a law declared by the legislature at the time of passage to be an emergency law necessary for the preservation of the public health, safety, or peace.

"(2) An initiative that proposes a reduction of taxes shall also provide for an equivalent reduction of expenditures or an equivalent increase in revenues from other sources.

"(3) An initiative shall address one subject only and matters reasonably related to that subject.

"(4) The ballot question shall be in such form that a 'yes' vote is a vote in favor of the proposal and a 'no' vote is a vote against the proposal.

"(5) A copy of the proposed initiative petition, including a complete text of the proposed law and containing signatures equal to at least 1 percent of the voters of each legislative district or 4 percent of all voters of the Virgin Islands must be submitted to the Supervisor of Elections prior to circulation for ballot qualification. The Supervisor of Elections must determine within 10 days after the submission whether the preliminary signatures are sufficient. If so determined, the Supervisor of Elections shall refer the preliminary petition to an initiative titling board consisting of the Attorney General, the Supervisor of Elections, and the legislative counsel of the legislature. The board shall, in an open hearing, prepare the official ballot title, the submission question, and a summary of the initiative proposal, and this preparation shall be completed within 30 days after the referral.

"(6) After the ballot title has been written, proponents of the initiative proposal shall have a maximum of 180 days to circulate the petition. Petitions containing signatures equal to at least 10 percent of the voters of each legislative district or 41 percent of all voters of the Virgin Islands must be submitted to the Supervisor of Elections. The Supervisor shall have 15 days to determine that the minimum number of valid signatures are contained in the petition and he shall forward the certified proposal to the legislature which must accept or reject the measure within 30 days. If approved, the initiative shall take effect in accordance with its terms. If the legislature does not approve, the initiative shall be submitted to the voters at the next general election, unless the legislature approves a special election for this purpose. The legislature may submit its own version of the initiative to the voters. Should both measures be approved by the voters, the measure receiving the higher number of votes shall prevail. The voters shall have a clear alternative of rejecting either version or the entire proposition.

"(7) An initiative submitted to the voters shall take effect if the initiative is approved by a majority of persons voting and if a majority of the voters of the Virgin Islands vote on the initiative. An initiative may not be vetoed by the Governor, and when approved by the voters, may not be amended or repealed by the legislature during the 3-year period after its approval unless the legislature acts by a two-thirds majority.

"(8) The legislature may provide the manner in which petitions shall be circulated, filed, certified, and the ballot question shall be submitted to the voters.

"(c)(1) An elected public official of the Virgin Islands may be removed from office by a recall election carried out under this subsection. The grounds for recall are any of the following: lack of fitness, incompetence, neglect of duty, or corruption.

"(2) A recall election may be initiated by a two-thirds vote of the members of the legislature or by a petition under this subsection.

"(3) Prior to circulation a recall petition which identifies by name and office the official being recalled and which states the grounds for recall shall be submitted to the Supervisor of Elections. The sponsors of the recall petition shall be allowed a period of 60 days after such submission for filing with the Supervisor of Elections a list of signatures equal in number to at least 50 percent of the whole number of votes cast for that office in the last general election at which that office was filled. The Supervisor of Elections shall have 15 days in which to determine whether the minimum number of valid signatures are contained in the recall petition.

"(4) A special recall election shall be held with respect to an elected public official not earlier than 30 days after a vote of the legislature under paragraph (2) or a determination of the board of elections under paragraph (3), as the case may be, and not later than 60 days after such vote or determination.

"(5) An official shall be removed from office upon approval of the recall in an election in which at least two-thirds of the number of persons voting for such official in the last preceding general election at which such official was elected vote in favor of recall and in which those so voting constitute a majority of all those participating in such recall election.

"(6) No recall election shall be held with respect to an elected public official—

"(A) during the first year of the first term of office of the official; or

"(B) less than 3 months before a general election for the office.

"(d) As used in this section, the term—

"(1) 'law' means a law of the Virgin Islands; and

"(2) 'voter' means a registered voter who is eligible to vote on the issue or for the office involved.".

SEC. 2. Appropriations through fiscal year 1986, made under authorization of subsection (c) of section 702 of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, approved by Public Law 94–241, may be expended for capital improvement projects which facilitate the economic development of the commonwealth.

SEC. 3. The first sentence of section 4(a) of the Act of November 20, 1963 (77 Stat. 339) is amended to read as follows: "(a) Except as otherwise provided by law, the governments of the Virgin Islands, Guam, and American Samoa, shall have concurrent civil and criminal jurisdiction with the United States with regard to property owned, reserved, or controlled by the United States in the Virgin Islands, Guam, and American Samoa respectively.".

SEC. 4. Effective October 1, 1985, there are authorized to be appropriated $1,200,000 to the Secretary of the Interior for grants to the College of the Virgin Islands for projects related to the Eastern Caribbean Center, to remain available until expended.

SEC. 5. Section 29(b) of the Organic Act of Guam (64 Stat. 392) is amended by striking out "Governor" and inserting in lieu thereof "Government of Guam".

SEC. 6. The Secretary of the Interior is authorized and directed to develop, in consultation with the Governor of the

Virgin Islands, options for the future use or disposition of Water Island which would contribute to economic growth in and make the island an integral part of the Virgin Islands community. The Secretary shall submit such options to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate within 10 days after the convening of the 100th Congress.

SEC. 7. Section 901(a) of part I of title I of the Act of June 19, 1968 (82 Stat. 225, as amended, 42 U.S.C. 3791(a)) is further amended—

(1) in paragraph (2)—

(A) by striking out "and"; and

(B) by inserting before the semicolon the following: ", American Samoa, Guam, and the Northern Mariana Islands: *Provided,* That for the purposes of section 407(a) American Samoa, Guam, and the Northern Mariana Islands shall be considered as one State and that, for these purposes, 33 per centum of the amounts allocated shall be allocated to American Samoa, 50 per centum to Guam, and 17 per centum to the Northern Mariana Islands"; and

(2) in paragraph (3)—

(A) by striking out ", Guam, American Samoa" and inserting "and" in lieu thereof, and

(B) by striking out all that appears after "Pacific Islands" and inserting a semicolon in lieu thereof.

SEC. 8. (a) Section 8a of the Act of September 2, 1937 (50 Stat. 918, as amended and supplemented, 16 U.S.C. 669g–1) is amended by deleting the word "Act," the first place it appears and inserting in lieu thereof: "Act, and hunter safety programs as provided by section 8(b) of this Act,".

(b) Section 4(b) of the Act of September 2, 1937 (50 Stat. 918, as amended and supplemented, 16 U.S.C. 669c(b)) is further amended by striking the period at the end of the first sentence and adding: "and Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands shall each be apportioned one-sixth of 1 per centum of such revenues.".

Passed the House of Representatives December 3, 1985.

Attest: BENJAMIN J. GUTHRIE,
Clerk.

Senator WEICKER. All statements today will be included in their entirety in the record. I would ask that remarks be limited, in consideration of some very severe time constraints which have been imposed by two factors—No. 1, the illness of Senator Chiles has made it impossible for Senator Johnston to help in the chairing of these hearings, as he's covering for Senator Chiles. In addition, we have the Boren legislation on the floor of the Senate which is coming to a vote midday and I am taking part in the debate. So I would appreciate it if witnesses would keep their remarks to a minimum in order that we might have an exchange insofar as any questions are concerned.

Our first panel of witnesses consists of Ron de Lugo, a Representative from the Virgin Islands; the Honorable Ben Blaz; and the Honorable Fofo Sunia. Is Representative Sunia here?

[No response.]

Senator WEICKER. Why don't we move right out in the order that I mentioned. Ron, why don't you go ahead and proceed first, and then we'll go to Ben after you.

STATEMENT OF HON. RON de LUGO, DELEGATE FROM THE VIRGIN ISLANDS

Mr. DE LUGO. Thank you very much, Mr. Chairman.

I'll be very brief in deference to the situation as you pointed out, but I do want to take this moment to thank you for the assistance that you gave us on this side of the Capitol and for tenaciousness with our education situation down there. It's very much appreciated by the people of the Virgin Islands, and I brought something over for you that I would like you to see.

Mr. Chairman, members of the committee, I want to thank you for this opportunity to testify in support of H.R. 2478. The House is expected to consider this bill this week, and I appreciate your providing this opportunity to discuss its provisions. I think it's excellent legislation. It's the type of legislation that gives more control of the government to the people, and this legislation will grant the people of the Virgin Islands the authority to act by initiative, and also to recall elected officials for cause.

I might point out that at the present time under the Organic Act in the Virgin Islands, the only elected official that can be recalled is the Governor. This is similar to the authority that was granted to the people of Guam in 1982 under Public Law 97-357.

Now the proposal is intended to establish guidelines for the initiative and recall process which would assure reliable presentation of proposals to the public while avoiding propositions with negligible support. It would be included in the revised Organic Act of the Virgin Islands, which serves as the territory's constitution.

I also have included in that legislation language which would clarify the extent of the concurrent jurisdiction which each territory shares with the Federal Government over Federal property located in the territory. The need to clarify this arose when the Federal District Court in the Virgin Islands ruled last year that the Virgin Islands government did not have jurisdiction over the use of federally owned property, and thus would not extend the open-beach laws to the federally owned Water Island, land held by the military in Guam will remain exempt from this provision as provided in subsection (b) of title 48, United States Code, section 1704.

Section 4 of the bill would authorize funding for the Eastern Caribbean Center, the College of the Virgin Islands, a project which I know that you support, Mr. Chairman. The College of the Virgin Islands has turned into a great asset not only for the Virgin Islands but for our country as well, and it is an institution that is a magnet, drawing students from all over the eastern Caribbean and many of today's leaders, the young leaders of the eastern Caribbean Islands, are graduates or have attended the College of the Virgin Islands.

I believe that the Virgin Islands is uniquely situated to play a strong role in this country's renewed focus on the eastern Caribbean region. The authority proposed under section 4 would enable the College of the Virgin Islands to continue its efforts to encourage the close relationships between this country and its neighbors to the south as suggested by the Caribbean Basin Initiative.

I would be happy to answer any questions that you may have regarding the Virgin Islands provisions of H.R. 2478, and I thank you for this opportunity.

[The prepared statement of Mr. de Lugo follows:]

STATEMENT

Submitted by

RON DE LUGO, M.C.

Before

THE SENATE ENERGY AND NATURAL RESOURCES COMMITTEE

DECEMBER 3, 1985

Mr. CHAIRMAN and MEMBERS OF THE COMMITTEE, thank you for this opportunity to testify in support of H.R. 2478. The House is expected to consider this proposal this week, and I appreciate your providing this opportunity to discuss its provisions.

Last year, during my re-election campaign, I made a promise to the voters of the United States Virgin Islands that I would seek legislation which would empower them to act by initiative and recall. Section 1 of H.R. 2478 would achieve this. As one who has made representative government his life's work, I did not suggest the idea lightly. I am convinced that initiative and recall should be exercised conservatively. The usual arguments come to mind: legislators are expected to devote time and the expertise available to their offices to become knowledgeable on issues presented, they can balance the impact of a proposition against the general interests of the community, they can compromise. The public, on the other hand, is limited to the position as stated by the initiative proponents, the public can

BE MANIPULATED BY THE INITIATIVE PROPONENTS, RECALL CAN BE USED BY POLITICAL OPPONENTS TO PERPETUATE THE CAMPAIGN, AND SO ON.

MOST IMPORTANT IN MY CONSIDERATION OF WHETHER OR NOT TO SEEK INITIATIVE AND RECALL IN THE PAST HAS BEEN THE SENSE THAT THE VIRGIN ISLANDS DID NOT NEED THIS VEHICLE FOR POLITICAL ACTION. THIS PERCEPTION CHANGED WHEN, LAST YEAR, JUST BEFORE THE ELECTION, THE LOCAL LEGISLATURE PASSED A ZONING CHANGE WHICH WOULD HAVE ALLOWED A HOTEL DEVELOPMENT AT ONE OF THE MOST PRIZED POSSESSIONS OF THE TERRITORY, MAGENS BAY BEACH. THE ZONING CHANGE PASSED INTO LAW AS AN AMENDMENT TO A BUDGET BILL -- THERE WERE NO PUBLIC HEARINGS, NO DEBATE. THE OUTRAGE IN THE COMMUNITY WAS REFLECTED IN THE FACT THAT A MAJORITY OF THE SENATORS THEN IN OFFICE DID NOT RETURN. BUT WHAT COULD THE PUBLIC HAVE DONE TO EFFECTIVELY OVERTURN THIS LEGISLATION IF THE OUTLET PRESENTED BY THE IMMINENT ELECTIONS WAS NOT AVAILABLE?

I BELIEVE THAT INITIATIVE AND RECALL PROVIDE A NECESSARY OUTLET FOR WHAT MIGHT OTHERWISE YIELD ANGER, FRUSTRATION, AND, WORST OF ALL, APATHY. THE PUBLIC MUST HAVE THE OPPORTUNITY TO ACT WHEN OUTRAGED BY THE ACTIONS, OR FAILURE TO ACT, OF THEIR ELECTED REPRESENTATIVES. THIS IS PARTICULARLY TRUE IN THE U.S. VIRGIN ISLANDS WHERE THE PUBLIC IS POLITICALLY AWARE AND ACTIVE. VOTER TURNOUT IN THE VIRGIN ISLANDS RUNS BETWEEN 75 TO 80 PERCENT IN GENERAL ELECTIONS.

BECAUSE THE INITIATIVE AND RECALL PROCESSES ARE COMPLEX AND SOME OTHER JURISDICTIONS HAVE EXPERIENCED DIFFICULTY IN THEIR APPLICATION, THE LEGISLATION I ORIGINALLY INTRODUCED HAS BEEN AMENDED, AND FURTHER AMENDMENT WILL BE PROPOSED WHEN THE BILL IS CONSIDERED BY THE HOUSE. AS AMENDED, THE PROPOSAL WOULD ESTABLISH GUIDELINES FOR THE INITIATIVE AND RECALL PROCESS WHICH WOULD ASSURE RELIABLE PRESENTATION OF PROPOSALS TO THE PUBLIC, WHILE AVOIDING PROPOSITIONS WITH NEGLIGBLE SUPPORT. LET ME WALK YOU THROUGH THE PROPOSAL AS IT WILL BE PROPOSED FOR CONSIDERATION BY THE HOUSE:

1. WHAT CAN THE INITIATIVE PETITION DO?

THE INITIATIVE PETITION MAY PROPOSE LEGISLATION THAT WOULD ENACT A LAW, OR WOULD AMEND OR REPEAL EXISTING LAWS.

THE INITIATIVE CANNOT AFFECT EMERGENCY LAWS, OR LAWS REDUCING TAXES --UNLESS THERE IS AN EQUIVALENT REDUCTION IN EXPENDITURES OR APPROPRIATIONS OR IN THE REVENUES OTHERWISE REQUIRED TO MEET THE OBLIGATIONS OF THE VIRGIN ISLANDS.

THE INITIATIVE CAN ONLY ADDRESS ONE SUBJECT.

2. WHAT STEPS MUST THE PROPONENT TAKE?

A. DEVISE A PETITION WHICH STATES THE FULL TEXT OF THE PROPOSAL.

B. GET 1% OF THE VOTERS FROM EACH ELECTION DISTRICT OR 4% OF THE VOTERS OF THE VIRGIN ISLANDS TO SUPPORT THE PETITION, AND GET THE SUPERVISOR OF ELECTIONS TO CERTIFY THE PETITION.

C. GET THE PETITION TITLED AND SUMMARIZED BY A BOARD (COMPOSED OF THE ATTORNEY GENERAL, SUPERVISOR OF ELECTIONS, AND THE LEGISLATIVE COUNSEL OF THE VIRGIN ISLANDS LEGISLATURE) AT AN OPEN HEARING PROVIDED FOR SUCH PURPOSE.

D. GET SIGNATURES OF AT LEAST 10% OF THE REGISTERED VOTERS IN EACH LEGISLATIVE DISTRICT, OR 41% OF ALL REGISTERED VOTERS TO SUPPORT THE INITIATIVE AS TITLED AND SUMMARIZED.

E. THE INITIATIVE PROPONENT(S) MUST THEN FILE THE PETITION WITH THE LEGISLATURE. IF THE LEGISLATURE ADOPTS THE PROPOSAL, IT SHALL TAKE EFFECT, ACCORDING TO ITS TERMS. IF THE LEGISLATURE REJECTS THE PROPOSAL OR FAILS TO ACT WITHIN THE SPECIFIED PERIOD, THE INITIATIVE SHALL BE THE SUBJECT OF A VOTE HELD AT THE NEXT GENERAL ELECTION --UNLESS, THE LEGISLATURE APPROVES A SPECIAL ELECTION ON THE INITIATIVE.

F. THE INITIATIVE WILL TAKE EFFECT UPON THE AFFIRMATIVE VOTE OF A MAJORITY OF THOSE VOTING, PROVIDED THAT MORE THAN HALF OF THE REGISTERED VOTERS VOTE ON THE PROPOSAL.

G. THE GOVERNOR MAY NOT VETO AN INITIATIVE, AND THE INITIATIVE MAY NOT BE AMENDED OR REPEALED BY THE LEGISLATURE UNTIL THREE YEARS HAVE PASSED, UNLESS THE LEGISLATURE ACTS BY A TWO-THIRDS MAJORITY.

H. THE FORM OF THE BALLOT QUESTION MUST BE SUCH THAT A "YES" VOTE IS IN FAVOR OF THE PROPOSAL, AND A "NO" VOTE IS IN OPPOSITION TO THE PROPOSAL. THIS SHOULD ENSURE THAT THE INTENTION OF THE VOTE IS ABOLUTELY CLEAR.

1. FURTHER DETAILS ON THE PROCESS ARE DELEGATED TO THE LEGISLATURE WHICH MAY PROVIDE THE MANNER IN WHICH THE PETITION IS CIRCULATED, CERTIFIED, FILED, AND THE TITLE AND SUMMARY IS PUT TO THE VOTERS.

3. WHAT DOES THE RECALL PROVISION GRANT?

A REGISTERED VOTER MAY SEEK THE RECALL OF ANY ELECTED OFFICIAL OF THE VIRGIN ISLANDS GOVERNMENT, PROVIDED THAT OFFICIAL IS NOT SERVING THE FIRST YEAR OF HIS OR HER FIRST TERM OF OFFICE, AND PROVIDED THE PETITION ALLEGES THAT THE OFFICIAL IS EITHER UNFIT TO SERVE, INCOMPETENT, HAS NEGLECTED HIS OR HER DUTY, OR IS CORRUPT.

A RECALL ELECTION CAN RESULT FROM A VOTE OF TWO-THIRDS OF THE LEGISLATURE IN FAVOR OF RECALL, OR FROM AN APPROPRIATE PETITION BY THE VOTERS.

2. WHAT MUST THE VOTER SEEKING A RECALL ELECTION DO, AND WHAT IS REQUIRED FOR A SUCCESSFUL RECALL?

A. THE PETITION MUST IDENTIFY THE OFFICIAL TO BE RECALLED BY NAME AND OFFICE.

B. THE PETITION MUST STATE THE REASON(S) FOR RECALL.

C. THE PETITION MUST BE SIGNED BY 50% OF THE VOTES CAST FOR THAT OFFICE IN THE LAST GENERAL ELECTION AT WHICH THAT OFFICE WAS FILLED.

D. THE SIGNATURES MUST BE CERTIFIED BY THE BOARD OF ELECTIONS.

E. THE RECALL ELECTION MUST BE HELD WITHIN 30 TO 60 DAYS OF CERTIFICATION, BUT NO RECALL ELECTION WOULD OCCUR WITHIN THREE MONTHS OF A GENERAL ELECTION FOR THE OFFICE IN QUESTION.

F. THE OFFICIAL WOULD BE RECALLED IF TWO-THIRDS OF THE NUMBER OF PERSONS WHO VOTED FOR THE OFFICIAL IN THE LAST PRECEDING ELECTION VOTE IN FAVOR OF RECALL, PROVIDED THIS CONSTITUTES A MAJORITY OF THOSE VOTING ON THE RECALL.

THE PROCESS I HAVE OUTLINED IS THE RESULT OF REVIEW BY THE INTERIOR AND INSULAR AFFAIRS COMMITTEE WORKING IN CONJUNCTION WITH THE ADMINISTRATION. IT WOULD BE INCLUDED IN THE REVISED ORGANIC ACT OF THE VIRGIN ISLANDS, WHICH SERVES AS THE TERRITORY'S CONSTITUTION.

AS THE VIRGIN ISLANDS COMMUNITY GROWS, PROBLEMS GAIN IN COMPLEXITY. THERE IS LESS MARGIN FOR ERROR IN THE DECISIONS WE MAKE REGARDING OUR FUTURE. THE LOCAL COMMUNITY IS ACUTELY AWARE OF THIS, AND IS LESS FLEXIBLE WITH REGARD TO CRITICAL QUESTIONS OF DEVELOPMENT AND SERVICE. THE AUTHORITY I REQUEST TODAY SHOULD ASSURE THAT DECISIONS MADE WILL REFLECT THE INTERESTS OF A HEALTHY, ACTIVE COMMUNITY.

SECTION 3 OF THE BILL IS INTENDED TO CLARIFY THE EXTENT OF THE CONCURRENT JURISDICTION WHICH EACH TERRITORY SHARES WITH THE FEDERAL GOVERNMENT OVER FEDERAL PROPERTY LOCATED IN THE

TERRITORY. THE NEED TO CLARIFY THIS AROSE WHEN THE FEDERAL DISTRICT COURT IN THE VIRGIN ISLANDS RULED LAST YEAR THAT THE VIRGIN ISLANDS GOVERNMENT DID NOT HAVE JURISDICTION OVER THE USE OF FEDERALLY OWNED PROPERTY, AND THUS WOULD NOT EXTEND THE OPEN BEACH LAWS TO THE FEDERALLY OWNED WATER ISLAND. LAND HELD BY THE MILITARY IN GUAM WILL REMAIN EXEMPTED FROM THIS PROVISION, AS PROVIDED IN SUBSECTION (B) OF 48 U.S.C. SECTION 1704.

SECTION 4 OF THE BILL WOULD AUTHORIZE FUNDING FOR THE EASTERN CARIBBEAN CENTER AT THE COLLEGE OF THE VIRGIN ISLANDS. CONGRESS HAS APPROPRIATED FUNDS IN THE PAST TO DEVELOP THE CONCEPT OF THE CENTER AS AN ADJUNT TO THE CARIBBEAN BASIN INITIATIVE. LAST YEAR, CONGRESS ALSO APPROPRIATED FUNDING TO DEVELOP CURRICULA FOR THE CENTER AND TO RESEARCH SPECIFIC EDUCATIONAL NEEDS OF DEVELOPING CARIBBEAN NATIONS. THE LATTER IS AN AREA IN WHICH THE COLLEGE OF THE VIRGIN ISLANDS ALREADY HAS CONSIDERABLE EXPERTISE. I THANK MEMBERS OF THIS COMMITTEE FOR THEIR SUPPORT OF THE CENTER IN THE PAST, AND HOPE THROUGH THIS PROVISION YOU WILL ALLOW THE CENTER TO GROW.

I BELIEVE THAT THE VIRGIN ISLANDS IS UNIQUELY SITUATED TO PLAY A STRONG ROLE IN THIS COUNTRY'S RENEWED FOCUS ON THE EASTERN CARIBBEAN REGION. THE AUTHORITY PROPOSED UNDER SECTION 4 WOULD ENABLE THE COLLEGE OF THE VIRGIN ISLANDS TO CONTINUE ITS EFFORT TO ENCOURAGE THE CLOSE RELATIONSHIP BETWEEN THIS COUNTRY AND ITS NEIGHBORS TO THE SOUTH, AS SUGGESTED BY THE CARIBBEAN BASIN INITIATIVE.

I WILL BE HAPPY TO ANSWER ANY QUESTIONS YOU MAY HAVE WITH REGARD TO THE VIRGIN ISLANDS PROVISIONS IN THE LEGISLATION, AND THANK YOU FOR THIS ATTENTION.

Senator **Weicker**. Ron, thank you very much. I'll get to questions after we hear from the witnesses. Thank you.

Congressman Blaz, it's good to have you here. Go right ahead.

STATEMENT OF HON. BEN GARRIDO BLAZ, DELEGATE FROM GUAM

Mr. **Blaz**. Thank you very much, Mr. Chairman. I always understand the restraints that you have here, so let me just get on with my summary here, sir.

The main focus of our attention today is the land issue on Guam. I just want to mention to you, Mr. Chairman, that because the situations in the Philippines has been used by the military as a reason for possibly further delaying the action that we had anticipated, I went to the Philippines this past week during the Thanksgiving recess, and had an opportunity to see the President himself, Mr. Marcos, the Chief of Staff, as well as the Philippine commanders and the American commanders of Subic and Clark, and I did not meet anyone who speaks about letting the Philippines return—or talk about giving back, or sending back, or rejecting the presence of the military in the Philippines. On the contrary, the President himself told me that he welcomes Clark and he welcomes Subic because he has internal strife that he has to contend with, and he certainly needs the assistance of the United States.

I even went as far, Mr. Chairman, as asking him the question of how he felt about the congressional resolution which set forth certain conditions under which the United States would consider the election in the Philippines as being fair and clean; and he said, since it's coming from friends and they are well intended, he certainly has every intention of complying with such a resolution.

In any case, the bottom line is that there is apparently no fear on the part of the American commanders there that they're about to be kicked out of the Philippines, and I did not get that from the President or the Philippines commanders. So what I'm saying is that 8 years ago, Mr. Chairman, the United States Navy had a plan for the Guam Land Use Plan, and it's been 8 long years that the people of Guam have been standing by waiting and waiting for the United States military to say, hey, we're going to let this land go and you can now start working and trying to improve your economic situation on Guam.

It is my purpose here to defer as much time as I can to the distinguished representatives from Guam, the Governor, the Speaker, and the Senators, so that they may outline for you in more detail than I can or would, the reason why we need it. But the important—the bottom line, as I said, is that I think the time is now for us to start thinking seriously about letting the people of Guam—there's a word in the tropics or in the islands. That is, the word for "land" is the same as the word for "life," and the story is told that the reason they're so adamant about land is because they don't make it anymore. And since you're so familiar with the Islands, you can see that when you talk about one-third of the island being in the military, it's so substantial in terms of the needs of the territory.

So all I want to say about it right now, Mr. Chairman, is the reasons that have been used by the military for holding the land appears, in my judgment, to be without basis, and I think the people of Guam deserve to have their land back at no cost to the people of Guam, and the details of how it's going to be handled we can work it out later in conjunction with the government of Guam, the people of Guam, the Department of the Interior, and the Department of Defense.

I also would like to mention at this time, Mr. Chairman, on that "other purposes" portion of the bill, we will be introducing—and I have already introduced—legislation. I'll just mention them by title briefly: H.R. 2224, an immigration matter. This is alien crewmen on U.S. boats. This is a very important thing for us, sir, because what it does is it hurts our tuna fleet on Guam to have a restriction to keep the crew of United States vessels from coming ashore on Guam simply because they happen to be non-United States citizens, and the morale of the crewmen is obviously very bad when you can see a Korean vessel next to you with a Korean crew coming ashore, and an American vessel with Micronesians aboard who are not United States—who are foreigners cannot come ashore. It's a very, very difficult thing for us to understand on Guam, and it hurts our tuna fleet industry.

We also have a situation, H.R. 3016, which I've also introduced, and this is so that foreign-built dredges—we have a project on Guam, Mr. Chairman, that is owned by the United States, it's got United States workers, but in order for us to dredge a portion of Guam, the law requires us to go to the United States and pay $1 million to get a United States dredger. We can get a dredger, a foreign-built dredger from the Northern Marianas for $50,000, and yet the law forbids us from doing that. And it's so unusual; it only applies to Guam, and the people of Guam are the ones paying for this harvest. So I have a bill to try to correct that.

I also have a bill to authorize the election of a public prosecutor. This is a bill I'd introduced, but in my recent trip the Guam Legislature, with both republicans and democrats and the speaker, all opining on the subject, they prefer to have the Organic Act of Guam changed to permit the creation of a local law that would create a public prosecutor, establish a public auditor, and reinforce a civil service commission.

I also have a bill that's been introduced, which I would seek your support on, H.R. 3758, that directs the Comptroller General to review the 1983 Final Report of the Guam Reparations Commission, so that we can address this question of property damages claimed by the Guamanians resulting from the Japanese occupation.

Also I'm seeking an amendment to section 29 of the Organic Act that grants Guam the power to organize its public school system by local law.

Now, Mr. Chairman, that concludes my brief remarks here and, like I said, in deference to the time I now close my remarks and I will submit the rest of it for the record.

Thank you, sir.

[The prepared statement of Mr. Blaz follows:]

STATEMENT OF

CONGRESSMAN BEN BLAZ

GUAM

TO THE COMMITTEE ON ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE

DECEMBER 3, 1985

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

I AM BEN BLAZ, THE DELEGATE TO CONGRESS FROM GUAM.

I FIRST WANT TO EXTEND TO YOU, MR. CHAIRMAN, AND YOUR COMMITTEE MEMBERS AND STAFF MY SINCERE APPRECIATION FOR YOUR EFFORTS IN SCHEDULING THIS HEARING, DURING WHAT IS PERHAPS YOUR BUSIEST PERIOD YET THIS SESSION. WE ARE MOST APPRECIATIVE.

I THANK YOU FOR THE OPPORTUNITY TO APPEAR BEFORE YOU AND TO ENTERTAIN TESTIMONY FROM GOVERNOR BORDALLO, SPEAKER GUTIERREZ AND OTHER MEMBERS OF THE 18TH GUAM LEGISLATURE ON VARIOUS ISSUES OF CONCERN TO THE PEOPLE OF GUAM.

EARLIER THIS YEAR, I REQUESTED THE GOVERNOR AND THE SPEAKER TO PROVIDE ME WITH A LIST OF ITEMS THEY BELIEVED WARRANTED OUR ATTENTION HERE IN CONGRESS. I HAVE RESPONDED ACCORDINGLY BY INTRODUCING A NUMBER OF LEGISLATIVE PROPOSALS ADDRESSING THESE CONCERNS--SOME OF WHICH ARE THE SUBJECT OF TODAY'S HEARING, AS WELL AS A HEARING LATER THIS WEEK IN THE HOUSE. THERE ARE ALSO A NUMBER OF TECHNICAL AMENDMENTS TO FEDERAL LEGISLATION I HAVE PROPOSED, AFTER DISCUSSION WITH VARIOUS LOCAL GOVERNMENT OFFICIALS IN GUAM, WHICH HAVE BEEN BROUGHT TO THE ATTENTION OF YOUR STAFF AND WHICH I ALSO RESPECTFULLY REQUEST RECEIVE THE COMMITTEE'S FAVORABLE CONSIDERATION. I WILL NOT, HOWEVER, DISCUSS THESE ITEMS AT LENGTH TODAY IN ORDER THAT WE MAY HEAR FROM OUR VISITORS FROM GUAM ON THE MORE SUBSTANTIVE MATTERS BEFORE US.

REGARDING THE MOST CRITICAL ISSUE HERE TODAY, GUAM LAND, I

WANT TO THANK THE CHAIRMAN FOR CONSIDERING THIS ISSUE IN S. 1441 AND FOR HIS AGREEMENT TO CONCURRENTLY CONSIDER MY BILL, H.R. 2884, WHICH WILL PROVIDE THE PEOPLE OF GUAM THE OPPORTUNITY TO NOT ONLY ACQUIRE, BUT ALSO DEVELOP, THEIR LAND FOR ITS BEST POSSIBLE USE.

THIS ISSUE HAS RECENTLY BEEN COMPLICATED BY EVENTS IN OUR NEIGHBORING ISLANDS OF THE PHILIPPINES. SOME HAVE SPECULATED WE COULD LOSE OUR VITAL BASES IN THE PHILIPPINES DUE TO THE DYNAMIC POLITICAL SITUATION THERE, WHICH, IN TURN, WOULD DELAY OR LIMIT THE RETURN OF EXCESS FEDERAL LAND ON GUAM TO OUR LOCAL GOVERNMENT. IN ORDER TO DETERMINE, FIRST HAND, THE GRAVITY OF THIS SITUATION, I RECENTLY VISITED THE PHILIPPINES OVER THE THANKSGIVING DISTRICT WORK PERIOD. I MET WITH PRESIDENT MARCOS AS WELL AS LEADERS OF THE OPPOSITION. ADDITIONALLY, I MET WITH BOTH THE UNITED STATES AND PHILIPPINE MILITARY LEADERS, AS WELL AS MAKING RECONNAISSANCE VISITS TO BOTH CLARK AND SUBIC BAY MILITARY INSTALLATIONS.

IN ALL MY DISCUSSIONS, I DID NOT FIND ANYONE WHO HONESTLY BELIEVED THAT THE UNITED STATES WOULD EVER HAVE TO WITHDRAW FROM THE PHILIPPINES. I WANT TO EMPHASIZE TO YOU TODAY MR. CHAIRMAN AS STRONGLY AS POSSIBLE THAT IN MY OPINION, BASED ON MY FIRST HAND OBSERVATION, IT IS NEITHER PROPER NOR PRUDENT TO LET THE SITUATION IN THE PHILIPPINES INFLUENCE ACTION ON MY BILL TO RETURN EXCESS LAND TO THE PEOPLE OF GUAM.

THE ISSUE OF LAND OWNERSHIP AND DEVELOPMENT IS AN ESSENTIAL ONE AND, NOT SURPRISINGLY, A VERY EMOTIONAL ONE. I REALIZE THIS

CAN BE SAID FOR ANY OF THE STATES, BUT WHEN YOU CONSIDER THE FACT THAT THERE ARE ONLY 212 SQUARE MILES OF LAND ON GUAM, AND THE CIRCUMSTANCES SURROUNDING THE TAKING OF MUCH OF THIS LAND BY THE NAVY, THE ISSUE BECOMES ONE THAT IS IN FACT UNIQUE TO MY DISTRICT. OVER THE YEARS YOU HAVE HEARD CONSIDERABLE TESTIMONY REGARDING THE MANNER IN WHICH THIS LAND WAS TAKEN. THE DISTINGUISHED REPRESENTATIVES FROM GUAM THAT YOU HAVE KINDLY INVITED WILL ELABORATE ON THIS ISSUE IN MORE DETAIL. I WOULD HOWEVER POINT OUT TO THE COMMITTEE THAT BECAUSE WE ON GUAM ENJOY ONE OF THE NATION'S LOWEST PER CAPITA INCOMES, ONLY $4,800 PER YEAR, AND AN UNEMPLOYMENT RATE HOVERING BETWEEN 10-13 PERCENT, OUR LAND BECOMES AN ESPECIALLY IMPORTANT COMMODITY, BOTH ECONOMICALLY AND PERSONALLY, TO OUR PEOPLE.

AS I STATED EARLIER, GUAM HAS ONLY 212 SQUARE MILES OF LAND. MUCH OF THIS PROPERTY DOES NOT LEND ITSELF TO DEVELOPMENT BECAUSE OF STEEP SLOPES, ROCKY LIMESTONE SOIL OR THE DANGER OF FLOOD AND TIDAL INUNDATION. SO THE SMALL AMOUNT THAT CAN BE DEVELOPED IS INDEED A PRECIOUS RESOURCE. I, TOGETHER WITH GUAM'S LEADERS HERE TODAY, ARE MAKING EVERY EFFORT TO BROADEN AND EXPAND GUAM'S ECONOMY. HOWEVER, THE PRIMARY LIMITATION ON THIS DEVELOPMENT IS THE LIMITED AVAILABILITY OF LAND. WE CAN EDUCATE AND TRAIN OUR WORK FORCE, BUT WE CANNOT CREATE MORE LAND. MUCH OF THE LAND REQUIREMENTS FOR THIS DEVELOPMENT COULD BE MET, HOWEVER, BY LAND NOW OWNED BY THE FEDERAL GOVERNMENT THAT IS SIMPLY LYING IDLE. MY TERRITORY NEEDS TO GET THIS LAND BACK WITHOUT FURTHER BURDENING ITS ALREADY STRAINED PUBLIC FUNDS, WHILE STILL ENSURING

THAT THE LAND, WHEN IT IS RETURNED, IS PUT TO THE BEST POSSIBLE USE FOR ITS PEOPLE.

H.R. 2884, WHICH I INTRODUCED LAST JUNE, ACCOMPLISHES THIS GOAL IN THE FOLLOWING MANNER.

THE FIRST ELEMENT OF THE BILL PROVIDES FOR THE DEVELOPMENT OF A "LAND USE AND DEVELOPMENT PLAN" FOR GUAM. THIS PLAN IS TO CONSIDER ALL LAND NOW OWNED BY THE FEDERAL GOVERNMENT AND, WHILE IT IS TO BE DEVELOPED BY THE GOVERNMENT OF GUAM IT MUST ALSO BE CONCURRED BY THE SECRETARY OF DEFENSE. HISTORICALLY, DEFENSE PLANNERS AND CIVILIAN PLANNERS HAVE WORKED INDEPENDENTLY AND OFTEN AT CROSSED PURPOSES. RECOGNIZING THIS, THE BILL ESSENTIALLY REQUIRES THAT CIVILIAN AND MILITARY PLANNERS AGREE ON THE BEST USE OF ALL FEDERAL LAND INCLUDING DETERMINING THAT SUCH "BEST USE" MAY BE PLACING IT UNDER LOCAL GOVERNMENT JURISDICTION. THERE IS NO INTENT TO RESTRICT LEGITIMATE DEVELOPMENT OF SUCH LAND BY DOD; ONLY TO ENSURE THAT ALL THE LAND IS OPTIMALLY DEVELOPED.

THE PLAN CLASSIFIES FEDERAL LAND INTO THREE GENERAL CATEGORIES: LAND THAT IS EXCESS TO DOD AND WHICH CAN BE RELEASED; LAND THAT IS NOT NOW USED BY DOD BUT THAT HAS A LONG TERM REQUIREMENT AND FOR WHICH SOME INTERIM USE BY GUAM WOULD BE POSSIBLE; AND, FINALLY LAND THAT IS CURRENTLY REQUIRED BY THE FEDERAL GOVERNMENT.

FOR THE LAND THAT CAN BE RELEASED, THE PLAN IS TO IDENTIFY ITS BEST USE AND DIVIDE IT INTO TWO CATEGORIES: PARCELS THAT ARE BEST USED BY THE GOVERNMENT, SUCH AS FOR SCHOOLS OR UTILITIES;

AND LAND THAT HAS DEVELOPMENT POTENTIAL BY THE PRIVATE SECTOR. THAT LAND IDENTIFIED FOR DEVELOPMENT IS TO BE RETAINED BY THE GOVERNMENT OF GUAM IN A PUBLIC TRUST TO BE USED FOR PURPOSES AS SPECIFIED IN THE PLAN. LAND THAT IS TO BE RETAINED BY THE FEDERAL GOVERNMENT FOR FUTURE REQUIREMENTS MUST HAVE IDENTIFIED INTERIM USES.

THIS PLAN MUST ALSO BE APPROVED BY THE SECRETARY OF INTERIOR AND MAY BE AMENDED AS THE REQUIREMENTS OF GUAM CHANGE IN THE SAME MANNER AS IT WAS DEVELOPED. THIS PROVISION ALLOWS GUAM TO DECIDE ITS BEST USES WITHOUT INTERFERENCE BY CONGRESS, EXCEPT IN THE UNLIKELY EVENT THAT THE SECRETARY OF INTERIOR DOES NOT APPROVE THE PLAN.

ONCE THE PLAN IS APPROVED, THE LAND IS TO BE TRANSFERRED TO GUAM AT NO COST WITH TWO BASIC CAVEATS. FIRST, THE LAND MUST BE USED FOR THE PURPOSE APPROVED IN THE PLAN AND SECOND, THAT THE LAND WILL NOT BE ALIENATED. THE LAND THAT IS HELD IN TRUST MAY BE LEASED FOR A PERIOD NOT EXCEEDING MORE THAN FIFTY YEARS, IN ORDER TO FACILITATE THE APPROVED DEVELOPMENT. ADDITIONALLY, THE SECRETARY OF DEFENSE IS AUTHORIZED TO PERMIT THE GOVERNMENT OF GUAM TO USE THE LAND FOR WHICH IT HAS FUTURE REQUIREMENTS FOR THE APPROVED USE BY THE LOCAL GOVERNMENT ON AN INTERIM BASIS.

AT THIS POINT LET ME EXPAND ON THE IMPORTANCE OF THE PROVISION THAT THE LAND BE TRANSFERRED AT NO COST. FIRST AND FOREMOST IS THE SIMPLE POINT THAT THE PEOPLE OF GUAM DO NOT HAVE THE FINANCIAL RESOURCES TO BUY THE LAND. GOVERNMENT BORROWING TO PURCHASE WOULD ONLY PUT A FURTHER BURDEN ON A VERY FRAGILE

ECONOMY ALREADY STRAINED BY A DEFICIT OF OVER $90 MILLION. UNDER CURRENT LAW, IF THE GOVERNMENT OF GUAM WERE TO ATTEMPT TO BUY THE LAND, I AM QUITE CERTAIN THAT SHORT-TERM FINANCIAL CONSIDERATIONS, RATHER THAN LONG RANGE PLANNING, WOULD THEN DICTATE LAND USE. THE LONG TERM BENEFITS THAT THIS BILL PROVIDES WOULD BE LOST.

SECOND, AND AS IMPORTANT, UNDER CURRENT FEDERAL LAW LAND CAN BE DISCOUNTED AND DONATED TO GUAM FOR CERTAIN SPECIFIC USES SUCH AS PARKS OR WILDLIFE REFUGES. PLANNING TO DATE HAS PERHAPS FOCUSED EXCESSIVELY ON OBTAINING "FREE" LAND AND, AS SUCH, LAND THAT MIGHT BETTER BE USED FOR DEVELOPMENT TO HELP CREATE A BETTER ECONOMIC BASE, HAS BEEN DEDICATED INSTEAD TO PERHAPS MORE INAPPROPRIATE USES. GUAM CANNOT AFFORD TO CONTINUE THESE PRACTICES WITH THE LARGE AMOUNTS OF DEFENSE LAND THAT ARE POTENTIALLY EXCESS. THE PRECEPT THAT ACQUISITION COST WILL NOT BE AFFECTED BY THE ULTIMATE LAND USE IS ESSENTIAL TO ASSURING THE HIGHEST AND BEST USE FOR ALL LANDS.

THE LAST PORTION OF THE BILL AMENDS AN EXISTING LAW COMMONLY REFERRED TO AS "THE BROOKS AMENDMENT" THAT HAS UNDULY RESTRICTED THE DEVELOPMENT OF THE AREA SURROUNDING THE COMMERCIAL PORT OF GUAM. PUBLIC LAW 96-418, AS AMENDED, AUTHORIZES THE CONVEYANCE OF 927 ACRES OF NAVY LAND TO THE GOVERNMENT OF GUAM. HOWEVER, IT ALSO DIRECTS THAT ANY MONETARY CONSIDERATION, LESS REASONABLE DEVELOPMENT COSTS, RECEIVED FROM THE SALE OR LEASE OF THE LAND BE PAID TO THE UNITED STATES. H.R. 2884 WOULD REPEAL THIS ONEROUS PROVISION REQUIRING PAYMENT TO THE UNITED STATES, AND INSTEAD, ALLOW FOR USE OF ANY PROCEEDS BY THE GOVERNMENT OF GUAM. THE CURRENT PROVISION REQUIRING PAYMENT TO THE UNITED STATES HAS SERVED ONLY AS A DISINCENTIVE TO DEVELOPMENT AND HAS HINDERED MUCH NEEDED PORT EXPANSION. SUCH EXPANSION IS NOT ONLY NECESSARY FOR THE CIVILIAN COMMUNITY BUT WOULD SERVE AS AN ADDITIONAL ASSET IN SUPPORT OF OUR NATIONAL DEFENSE. ALLOWING GUAM TO REALIZE DIRECT BENEFITS FROM THE DEVELOPMENT OF ITS SEAPORT IS VITAL TO GUAM'S FUTURE ECONOMIC DEVELOPMENT.

IN SUMMARY THEN, I ASK FOR YOUR FAVORABLE CONSIDERATION OF THE LANGUAGE CONTAINED IN H.R. 2884 IN ORDER THAT MY TERRITORY CAN PROCEED TO DEVELOP ITS ECONOMY, AND, IN TURN, CONTRIBUTE TO OUR NATIONAL GROWTH UNBOUND BY INAPPROPRIATE RESTRICTIONS ON USE OF LAND IT RIGHTFULLY CAN CLAIM AS ITS OWN.

I SPEAK ALSO IN SUPPORT OF LEGISLATION WHICH I HAVE INTRODUCED IN THE HOUSE TO REMEDY A NUMBER OF PRESSING PROBLEMS INCLUDING IMMIGRATION MATTERS(H.R. 2224), USE OF FOREIGN-BUILT DREDGES IN GUAM (H.R. 3016), AND THE PROPER RECOGNITION OF TERRITORIAL LEADERS IN STATUARY HALL IN THE CAPITOL (H.R. 3778).

AN OBSOLETE PROVISION OF THE IMMIGRATION LAW ALLOWS ALIEN CREWMEN ON FOREIGN SHIPS TO ENTER GUAM FOR SHORE LEAVE WHILE DENYING THE SAME ALIEN CREWMEN ENTRY TO GUAM IF THEY WORK ON U.S.-REGISTERED SHIPS. THIS DISCRIMINATORY TREATMENT FAVORING FOREIGN SHIPS HAS RESULTED IN SEVERE MORALE PROBLEMS IN THE AMERICAN TUNA FLEET IN GUAM. IN FACT, VIOLENCE ERUPTED WHEN IMMIGRATION OFFICERS ATTEMPTED TO ENFORCE THE LAW. I HAVE INTRODUCED A BILL, H.R. 2224, IN THE HOUSE TO ALLOW ALIEN CREW ON

U.S. BOATS TO ENTER GUAM. I SUBMIT A COPY OF THIS LEGISLATION WITH MY STATEMENT FOR YOUR CONSIDERATION IN HOPE THAT YOU AGREE TO SUPPORT IT IN ITS SENATE VERSION. THIS BILL WILL SOLVE THE PROBLEM.

THE U.S. IMMIGRATION AND NATURALIZATION SERVICE (INS) HAS DONE ITS PART, TOO, BY PAROLING THESE CREWMEN INTO GUAM PENDING PASSAGE OF MY BILL. I HAVE REQUESTED THAT THE INS EXTEND THE PAROLE INTO THE COMING YEAR BECAUSE MY BILL HAS NOT YET RECEIVED FULL CONSIDERATION IN THE HOUSE. THE CURRENT EFFORT IN THE HOUSE TO SOLVE THE NATION'S ILLEGAL IMMIGRATION CRISIS HAS PRECLUDED RAPID CONSIDERATION OF GUAM'S ALIEN CREW PROBLEM. STILL, THERE IS SUBSTANTIAL SUPPORT BOTH IN CONGRESS AND THE ADMINISTRATION FOR A CURE. CONGRESSMAN MAZZOLI, CHAIRMAN OF THE HOUSE SUBCOMMITTEE ON IMMIGRATION, REFUGEES AND INTERNATIONAL LAW, AND THE RANKING MINORITY MEMBER ON THAT SUBCOMMITTEE, CONGRESSMAN DAN LUNGREN, HAVE BOTH EXPRESSED THEIR SUPPORT FOR MY BILL. THE DEPARTMENTS OF JUSTICE AND STATE HAVE EXPRESSED NO OPPOSITION TO IT, AND THE DEPARTMENT OF INTERIOR SUPPORTS THE BILL UNRESERVEDLY. I HAVE RECEIVED CHAIRMAN MAZZOLI'S ASSURANCE THAT THIS MATTER WILL BE ADDRESSED EARLY NEXT YEAR IN HIS SUBCOMMITTEE. I EXPECT EARLY PASSAGE OF THE BILL IN THE HOUSE NEXT YEAR, AND URGE MEMBERS OF THIS COMMITTEE TO GIVE FAVORABLE CONSIDERATION TO THIS LEGISLATION WHEN IT IS INTRODUCED IN THE SENATE.

A PROVISION OF FEDERAL MARITIME LAW IS ALSO FRUSTRATING ECONOMIC PROGRESS IN GUAM. THIS LAW PREVENTS US FROM USING FOREIGN-BUILT, FOREIGN-REGISTERED DREDGES. THE COASTWISE LAWS IN

GENERAL HAVE IMPOSED AN ENORMOUS BURDEN ON OUR ECONOMY. THIS BURDEN HAS STUNTED OUR GROWTH AND FORCED US INTO DEPENDENCE ON FEDERAL SUBSIDIES. THE FOREIGN DREDGE PROHIBITION PROVES MY POINT. IT WILL COST $1,000,000 TO BRING A U.S.-REGISTERED DREDGE TO GUAM TO FINISH THE PARTIALLY FEDERALLY-FUNDED HARBOR OF REFUGE PROJECT, THE ONLY ON-GOING DREDGE PROJECT IN GUAM. IN COMPARISON, A FOREIGN-REGISTERED DREDGE CAN BE BROUGHT TO GUAM FROM THE NORTHERN MARIANA ISLANDS FOR ONLY $50,000.

DOES THE NEED TO PROTECT THE AMERICAN MARITIME INDUSTRY JUSTIFY ADDING $950,000 TO THE COST OF THIS MEDIUM SIZE DREDGING PROJECT IN GUAM? GUAMANIAN TAXPAYERS WILL HAVE TO SHOULDER THIS ADDED COST BECAUSE THE HARBOR OF REFUGE PROJECT IS FUNDED IN PART BY THE GOVERNMENT OF GUAM. I MUST ADD THAT ALL THE COMPANIES WHICH BID ON THE PROJECT ARE AMERICAN-OWNED AND EMPLOY AMERICAN WORKERS. MR. CHAIRMAN, I ASSERT THAT THE NEARLY $1,000,000 IN ADDED TAX BURDEN FROM THIS PROJECT FAR OUTWEIGHS THE BENEFIT WHICH WOULD ACCRUE TO THE AMERICAN MERCHANT MARINE.

I HAVE ALSO BEEN INFORMED THAT IN SPITE OF THIS LAW NO MAJOR DOMESTIC DREDGING COMPANY WAS INTERESTED IN BIDDING ON THIS PROJECT. WHY SHOULD GUAM HAVE TO PAY THIS PREMIUM TO PROTECT AN AMERICAN INDUSTRY WHICH IS NOT EVEN INTERESTED IN DOING THE WORK? IN ANY CASE AN AMERICAN COMPANY WILL CARRY OUT THE DREDGING. I BELIEVE THAT THERE IS NO REASON TO FORCE GUAM TO SUBMIT TO THIS LAW.

I HAVE INTRODUCED LEGISLATION, H.R. 3016, TO EXEMPT GUAM FROM THIS LAW AND HAVE SINCE REFINED THE LANGUAGE TO OBTAIN AN

EXEMPTION FOR THIS SPECIFIC PROJECT. I SUBMIT A COPY OF THIS REFINED LANGUAGE FOR THE COMMITTEE'S CONSIDERATION AND URGE YOUR SUPPORT FOR THIS BILL WHEN IT REACHES THE SENATE. THIS BILL HAS BEEN REFERRED TO THE HOUSE MERCHANT MARINE COMMITTEE. I INTEND TO PURSUE THIS JUST CAUSE NEXT YEAR AND EXPECT PASSAGE IN THE HOUSE. I URGE THIS COMMITTEE THEN TO WORK WITH ME IN A JOINT EFFORT TO EXEMPT GUAM FROM THIS LAW THAT PLACES A WEIGHT ON GUAM'S PEOPLE FAR IN EXCESS OF ANY REAL BENEFIT TO THE AMERICAN DREDGING INDUSTRY.

I AM PLEASED TO REPORT THAT WE HAVE MADE SIGNIFICANT PROGRESS IN REMOVING CERTAIN ANTIQUATED PROVISIONS OF FEDERAL LAW WHICH HAMPER GUAM'S DEVELOPMENT. AT MY URGING, THE HOUSE WAYS & MEANS COMMITTEE DECIDED IN ITS TAX REFORM PACKAGE TO EXEMPT THE BANK OF GUAM FROM FEDERAL INCOME TAXATION ON INTEREST FROM FEDERAL SECURITIES. CURRENTLY, THE BANK OF GUAM IS THE ONLY CORPORATION ON GUAM WHICH PAYS FEDERAL INCOME TAX ON THIS KIND OF INCOME. ALL OTHER GUAM CORPORATIONS PAY GUAM INCOME TAX UNDER THE MIRROR CODE ON THIS INTEREST. I FULLY INTEND TO SEE THAT THIS BURDEN ON THE BANK OF GUAM IS REMOVED AND URGE THIS COMMITTEE TO HELP ME IN MY QUEST TO UNDO THIS UNFAIR PROVISION.

MR. CHAIRMAN, I WOULD ALSO RESPECTFULLY REQUEST THE COMMITTEE'S ATTENTION BE DIRECTED TO ANOTHER PROPOSAL I HAVE BEFORE CONGRESS ON WHICH OUR GUESTS FROM GUAM MAY OFFER COMMENT.

I HAVE INTRODUCED IN THE HOUSE H.R. 3757, A BILL TO AMEND SECTION 6 OF THE ORGANIC ACT OF GUAM TO AUTHORIZE ELECTION OF A PUBLIC PROSECUTOR TO ASSUME SOME OF THE FUNCTIONS OF THE

TERRITORY'S APPOINTED ATTORNEY GENERAL. A FEDERAL COURT RULING IN 1983 STRUCK DOWN AS INORGANIC A TERRITORIAL LAW ESTABLISHING SUCH A PROSECUTOR'S OFFICE. THE ESSENTIAL PURPOSE OF THIS BILL IS TO PROVIDE FOR GREATER PUBLIC ACCOUNTABILITY AND TO FURTHER ELIMINATE THE OPPORTUNITY FOR WHITE COLLAR CRIMES AND CORRUPTION IN THE GOVERNMENT OF GUAM. THIS CONCEPT IS FULLY SUPPORTED BY THE GUAM LEGISLATURE AS EVIDENCED BY ITS RECENT PASSAGE OF RESOLUTION NO. 217. I HAVE ALSO CONCURRED WITH THE LEGISLATURE THAT A SIMPLE AMENDMENT TO SECTION 6 OF THE ORGANIC ACT, AUTHORIZING THE CREATION OF THE OFFICE BY LOCAL LAW WOULD BE ACCEPTABLE AMENDATORY LANGUAGE TO MY BILL. I URGE, AS WELL, THE COMMITTEE CONSIDER SIMILAR LANGUAGE ENDORSED BY THE LEGISLATURE ESTABLISHING A LOCAL PUBLIC AUDITOR AND REINFORCING THE AUTONOMY OF GUAM'S CIVIL SERVICE COMMISSION.

ANOTHER MEASURE I HAVE INTRODUCED, H.R. 3758, WOULD DIRECT THE COMPTROLLER GENERAL OF THE UNITED STATES TO REVIEW THE NOVEMBER 1, 1983 FINAL REPORT OF THE GUAM REPARATIONS COMMISSION AND TO SUBMIT TO THE HOUSE AND SENATE ITS FINDINGS AND RECOMMENDATIONS TO THIS COMMITTEE FOR CONGRESSIONAL ACTION. A PRIMARY PURPOSE OF THIS BILL IS TO FOCUS CONGRESSIONAL ATTENTION ON THE LONG-STANDING ISSUE OF WAR DAMAGES SUFFERED BY THE PEOPLE OF GUAM. AS YOU MAY BE AWARE, ARRANGEMENTS WERE MADE BETWEEN THE UNITED STATES AND JAPAN FOR JAPAN TO MAKE RESTITUTION TO OTHER PACIFIC ISLANDS FOR LOSSES INCURRED AS A RESULT OF HOSTILITIES OR HOSTILE OCCUPATION BY THE JAPANESE IMPERIAL FORCES. HOWEVER, GUAM WAS SINGLED OUT IN THE PEACE TREATY IN 1951 BY JAPAN'S FAILURE TO

ACCEPT CULPABILITY OR ANY LIABILITY FOR ANY LOSSES SUFFERED BY THE PEOPLE OF GUAM.

ANOTHER PROPOSAL OF SIGNIFICANT CONCERN WHICH I HAVE BROUGHT TO THE ATTENTION OF CONGRESS IS AN AMENDMENT TO SECTION 29(b) OF GUAM'S ORGANIC ACT. THIS AMENDMENT WOULD GRANT GUAM THE POWER TO ORGANIZE ITS PUBLIC SCHOOL SYSTEM BY LOCAL LAW. THE AMENDMENT IS ENDORSED BY BOTH THE GUAM LEGISLATURE AND THE TERRITORIAL BOARD OF EDUCATION. WE ARE CONVINCED THAT THE IMMENSE RESPONSIBILITY FOR PUBLIC EDUCATION CAN BE BEST EXECUTED THROUGH LAWS ENACTED BY THE LEGISLATURE OF GUAM RATHER THAN BY METHODS DICTATED THROUGH FEDERAL LAW UNDER OUTDATED ORGANIC ACT PROVISIONS. THIS AMENDMENT IS AN ESSENTIAL INGREDIENT IN MAINTAINING THE INTEGRITY OF PUBLIC EDUCATION IN THE TERRITORY.

I APPRECIATE VERY MUCH THE OPPORTUNITY OF APPEARING BEFORE YOU TODAY AND TO PRESENT MY TESTIMONY. I AM PLEASED TO HAVE GOVERNOR BORDALLO, SPEAKER GUTIERREZ, SENATORS SANTOS AND QUITUGUA JOIN ME IN THIS HEARING TO PRESENT TO YOU THE VIEWS OF GUAM ON THESE IMPORTANT MEASURES.

THANK YOU.

Senator WEICKER. Thank you very much.

Congressman Sunia.

STATEMENT OF HON. FOFO I.F. SUNIA, DELEGATE FROM AMERICAN SAMOA

Mr. SUNIA. Good morning, Mr. Chairman.

Senator WEICKER. Good morning.

Mr. SUNIA. Thank you for this opportunity to come before you this morning.

As you know, section 7 of H.R. 2478 would authorize American Samoa's participation in the Justice Assistance Program, and I unite myself with the excellent remarks and comments of my distinguished colleague from Guam, Hon. Ben Blaz, and by our friend from the Virgin Islands, Hon. Ron de Lugo.

Mr. Chairman, I have two additional matters that I would like to bring to your attention relating to American Samoa, one of which is to request to be included in the weatherization assistance program for low-income persons. That matter is described in my testimony that I have submitted, and I will not prolong on that subject.

May I ask, Mr. Chairman, if I can introduce for the record a brief letter from our Director of Energy, Territorial Energy Program?

Senator WEICKER. It will be so included in the record in its entirety.

Mr. SUNIA. Thank you, Mr. Chairman.

The other matter that I have asked for inclusion requiring legislation for American Samoa relates to the court. I have developed, together with Hon. Anthony Kennedy, chairman of the Pacific Territories Committee of the Judicial Conference of the United States, and with the Department of the Interior's Office of Territorial and International Affairs, the text of a very short amendment that would change the venue for those suits arising in American Samoa against the Secretary of the Interior.

The Administrative Office of the U.S. Courts has sent me written confirmation of Judge Kennedy's position and the text of this amendment and, Mr. Chairman, may I ask that that letter be also included.

Senator WEICKER. It will be included in the record in its entirety.

Mr. SUNIA. Thank you very much.

As I said, I have prepared the statement. It has been submitted for the record, and I will not prolong the discussions.

I will be happy to answer any questions relating to these subjects. Thank you again for the opportunity.

Senator WEICKER. Thank you very much, Congressman.

[The prepared statement and attachments submitted by Mr. Sunia follow:]

STATEMENT OF THE HONORABLE FOFO I.F. SUNIA
MEMBER OF CONGRESS FROM AMERICAN SAMOA
TUESDAY, 3RD DECEMBER 1985
DIRKSEN SENATE OFFICE BUILDING
COMMITTEE ON ENERGY AND NATURAL RESOURCES

MR. CHAIRMAN, THANK YOU VERY MUCH FOR YOUR KINDNESS IN INVITING ME TO TESTIFY THIS MORNING ON THOSE PROVISIONS OF H.R. 2478, THE VIRGIN ISLANDS INITIATIVE BILL, WHICH AFFECT MY TERRITORY, AMERICAN SAMOA.

AS YOU KNOW, SECTION SEVEN OF H.R. 2478 WOULD AUTHORIZE AMERICAN SAMOA'S PARTICIPATION IN THE JUSTICE ASSISTANCE PROGRAM. I UNITE MYSELF WITH THE EXCELLENT COMMENTS IN THIS REGARD BY MY DISTINGUISHED COLLEAGUE FROM GUAM, THE HONORABLE BEN BLAZ, AND BY OUR FINE FRIEND FROM THE NORTHERN MARIANAS, THE HONORABLE FROILAN TENORIO.

MAY I ASK THAT YOUR DISTINGUISHED COMMITTEE ADD AN ADDITIONAL ADMENDMENT TO H.R. 2478? AMERICAN SAMOA DOES NOT ENJOY THE FULL WEATHERIZATION ASSISTANCE PROGRAM FOR LOW-INCOME PERSONS. WE NEED TO ADD AMERICAN SAMOA TO SECTION 412(8) OF THE ENERGY CONSERVATION AND PRODUCTION ACT. 42 U.S.C. SEC. 6862(8). BY EXTENDING THIS PROGRAM TO MY TERRITORY, THE FEDERAL GOVERNMENT WOULD HELP TO ESTABLISH A PRESCRIBED LEVEL OF INSULATION IN THE HOMES OF LOW-INCOME PERSONS, PARTICULARLY THOSE WHO ARE ELDERLY OR HANDICAPPED. THESE PERSONS WANT TO KEEP THEIR UTILITY COSTS DOWN AND TO CONSERVE PRECIOUS ENERGY. MAY I ASK THAT YOU INCLUDE IN THE RECORD AT THIS POINT A COPY OF A LETTER I RECEIVED YESTERDAY FROM DRURY S. SAMIA, THE DIRECTOR OF

THE TERRITORIAL ENERGY OFFICE, IN WHICH MR. SAMIA SHOWS HOW IMPORTANT THIS-AMENDMENT IS TO THE ADMINISTRATION OF THE PRESENT GOVERNOR OF AMERICAN SAMOA, THE HONORABLE A.P. LUTALI?

ON ANOTHER MATTER REQUIRING LEGISLATION FOR AMERICAN SAMOA, I HAVE DEVELOPED TOGETHER WITH THE HONORABLE ANTHONY M. KENNEDY, THE CHAIRMAN OF THE PACIFIC TERRITORIES COMMITTEE OF THE JUDICIAL CONFERENCE OF THE UNITED STATES, AND WITH THE DEPARTMENT OF THE INTERIOR'S OFFICE OF TERRITORIAL AND INTERNATIONAL AFFAIRS THE TEXT OF A SHORT AMENDMENT THAT WOULD CHANGE THE VENUE FOR THOSE SUITS ARISING IN AMERICAN SAMOA AGAINST THE SECRETARY OF THE INTERIOR. THE ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS HAS SENT ME WRITTEN CONFIRMATION OF JUDGE KENNEDY'S POSITION ON THE TEXT OF THIS AMENDMENT. MAY I INCORPORATE AT THIS POINT IN MY TESTIMONY JUDGE KENNEDY'S LETTER, WHICH INCLUDES THE LANGUAGE OF THE PROPOSED AMENDMENT?

IN THE EIGHTY-FIVE YEARS OF AMERICAN SOVEREIGNTY OVER OUR ISLANDS, ONLY ONE CASE ARISING FROM AMERICAN SAMOA HAS REACHED ADJUDICATION IN A UNITED STATES DISTRICT COURT. KING V. MORTON, 520 F.2D 1140 (D.C. CIR. 1975); KING V. ANDRUS, 452 F.SUPP. 11 (D.C. 1977). IN ADDITION THERE WAS ONE OTHER CASE THAT WAS FILED BUT NEVER DECIDED, COLEMAN V. CLARK, NO. 84-2948, (D.C. HEARING HELD 21ST SEPT. 1984). ALSO, PLEADINGS HAVE BEEN FILED IN A CASE TO BE HEARD SOMETIME SOON BY THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA; THE PARTIES ARE THE SECRETARY OF THE INTERIOR, THE HONORABLE DONALD PAUL HODEL, AND THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS (CIVIL ACTION NO. 85-1894).

UNITED STATES DISTRICT COURTS ARE COURTS OF LIMITED JURISDICTION, AND CONGRESS HAS NOT EXTENDED THOSE LIMITS TO INCLUDE AMERICAN SAMOA. UNDER PRESENT PRACTICE, FINAL DECISIONS OF THE APPELLATE DIVISION OF THE HIGH COURT OF AMERICAN SAMOA ARE NOT DIRECTLY REVIEWABLE. IN BOTH KING AND COLEMAN AS WELL AS NOW IN THE LDS SUIT, THE PETITIONERS SOUGHT RELIEF FROM AN ACTION OR A DECISION NOT TO ACT BY THE SECRETARY OF THE INTERIOR AS THE ADMINISTRATOR OF AMERICAN SAMOA. 48 U.S.C. SEC. 1661(C); EXEC. ORDER NO. 10,264, 16 FED. REG. 6419 (1951), REPRINTED IN 48 U.S.C. SEC. 1662 SUPP. AT 225 (1985). HAVING NOT LIKED WHAT THE SECRETARY DID OR DID NOT DO, LITIGANTS HAVE THEN HAD RECOURSE TO SUE THE SECRETARY AS THE ADMINISTRATOR OF AMERICAN SAMOA IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA.

THIS AMENDMENT WOULD RETAIN THE STATUS QUO OF THIS ARRANGEMENT AND CHANGE ONLY ONE POINT. THE UNITED STATES DISTRICT COURT TO WHICH LITIGANTS FROM AMERICAN SAMOA WOULD HAVE TO TRAVEL WOULD NOT BE EIGHT THOUSAND MILES AWAY IN WASHINGTON, D.C., BUT JUST OVER TWENTY-TWO HUNDRED MILES DISTANT IN HONOLULU. I SUGGEST THIS MOVE ON THREE POINTS OF COMMON SENSE. FIRST, IT IS MORE WITHIN THE FINANCIAL GRASP OF POTENTIAL PLAINTIFFS RESIDENT IN AMERICAN SAMOA TO TRAVEL TO HAWAII THAN TO THE FAR EASTERN SHORES OF THE MAINLAND UNITED STATES. SECOND, OF ALL THE UNITED STATES DISTRICT COURTS, THAT IN HONOLULU HAS HAD THE GREATEST EXPERIENCE WITH SAMOANS IN PARTICULAR AND POLYNESIANS IN GENERAL, HAWAII ITSELF BEING A PART OF POLYNESIA. THIRD, OVER THE YEARS MEMBERS OF THE FEDERAL BENCH IN HAWAII HAVE ENJOYED TEMPORARY TERMS OF OFFICE ON THE HIGH COURT OF AMERICAN SAMOA AND HAVE THUS PROVIDED THE UNITED STATES DISTRICT COURT IN HONOLULU WITH SOME EXPERIENCE IN AMERICAN SAMOA. THIS IS THE DISTRICT COURT WHOSE JURISDICTION SHOULD EXTEND TO AMERICAN

SAMOA FOR THE PURPOSES THAT THIS AMENDMENT OUTLINES.

THANK YOU FOR LETTING ME APPEAR BEFORE YOUR COMMITTEE TODAY TO STRESS THE IMPORTANCE OF H.R. 2478 TO AMERICAN SAMOA AND THE TWO AREAS IN THIS BILL THAT REQUIRE AMENDMENTS FOR MY CONSTITUENTS. I AM MOST GRATEFUL FOR YOUR ATTENTION TO THESE ISSUES.

QUESTION: WOULD YOU PLEASE DETAIL HOW YOU RECEIVED APPROVAL FROM THE JUDICIAL CONFERENCE FOR YOUR AMENDMENT ON A CHANGE OF VENUE FOR AMERICAN SAMOA?

ANSWER: AS YOU KNOW, THE HONORABLE ANTHONY KENNEDY, WHO SERVES ON THE U.S. COURT OF APPEALS FOR THE NINTH CIRCUIT, CHAIRS THE PACIFIC TERRITORIES COMMITTEE OF THE JUDICIAL CONFERENCE OF THE UNITED STATES. HAVING PREVIOUSLY CORRESPONDED WITH JUDGE KENNEDY ON THIS ISSUE, I MET WITH HIM IN HONOLULU THIS PAST APRIL. WE HAD A LONG AND POSITIVE DISCUSSION ON WHETHER WE SHOULD INTERGRATE THE COURTS OF AMERICAN SAMOA INTO THE FEDERAL SYSTEM. WE DECIDED THAT, FOR THE PRESENT, ALL WE SHOULD SEEK IS A SIMPLE CHANGE OF VENUE FOR CASES ARISING IN AMERICAN SAMOA AGAINST THE SECRETARY OF THE INTERIOR IN HIS CAPACITY AS THE ADMINISTRATOR OF THE TERRITORY. OVER THE LAST EIGHT MONTHS MY STAFF HAS KEPT IN TOUCH WITH JUDGE KENNEDY AND HIS ASSISTANTS AND HAS SUBMITTED VARIOUS DRAFTS OF STATUTORY LANGUAGE TO EFFECT SUCH A CHANGE. LAST FRIDAY JUDGE KENNEDY'S ASSISTANTS HERE AT THE ADMINISTRATIVE OFFICE OF THE U.S. COURTS SENT MY STAFF THE FINAL TEXT, AND THIS CAME WITH JUDGE KENNEDY'S APPROVAL. THE LETTER THAT YOU MOST KINDLY ALLOWED ME TO ENTER INTO THE RECORD IS AN ORIGINAL COPY OF THAT TEXT FROM THE ADMINISTRATIVE OFFICE.

GOVERNMENT OF AMERICAN SAMOA
PAGO PAGO, AMERICAN SAMOA 96799
TERRITORIAL ENERGY OFFICE
OFFICE OF THE GOVERNOR

In reply refer to:
WP:DSS:080-86

November 29, 1985

Congressman Fofō I.F. Sunia
1709 Longworth House Office Building
Washington, D.C. 20515

Dear Fofō:

The Territorial Energy Office has, since its inception has been investigating the possibility of American Samoa being able to participate in the Weatherization Assistance Programs because of our participation in other programs identified under Title IV of the Energy Conservation and Production Act.

The only contributing factor after reading the components of the Act that hindered our participation was the term "States" which includes the District of Columbia, with no mention of the Territories. Should this be amended, I feel our application to the Department of Energy will be approved.

We strongly feel that low income persons will benefit tremendously from this program. Based on our latest survey, we have approximately 300 low income homeowners identified with predictions of possibly another 700 homeowners being included. Out of a total of 4,000, a 25% participation could be labeled a success.

Our fondest "Fa'amalō" for your efforts.

Respectfully yours,

Drury S. Samia
Director

cc: A.P. Lutali, Governor

**ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS**
WASHINGTON, D.C. 20544

L. RALPH MECHAM
DIRECTOR

WILLIAM R. BURCHILL, JR.
GENERAL COUNSEL

November 29, 1985

Mr. Joseph H. McDermott
Legislative Assistant to the Honorable Fofo Sunia
Congress of the United States
1709 Longworth House Office Building
Washington, D.C. 20515

Dear Mr. McDermott:

After consultation with Judge Anthony M. Kennedy, Chairman of the Pacific Territories Committee of the Judicial Conference of the United States, we would propose that the following language pertaining to venue for cases arising in American Samoa be placed in the Virgin Islands Initiative Bill, H.R. 2478:

> An action arising in American Samoa against the Secretary of the Interior shall be brought only in the United States District Court for the District of Hawaii, provided that such action is properly brought in a district court of the United States.

We believe that the above language would accomplish the purposes of your proposal regarding American Samoa.

Please call me at 633-6127 if you have any questions concerning this matter.

Sincerely,

Susan J. Thomas
Assistant General Counsel

Senator WEICKER. Senator Hecht, do you have questions of any of these gentlemen?

Senator HECHT. No, thank you.

Senator WEICKER. Just some brief ones.

Ron, I understand the powers of the initiative and recall have been offered to the Virgin Islands previously. Is that correct?

Mr. DE LUGO. Yes, they were, but they were part of the constitution which was rejected for other reasons. This was not a controversial section of the constitution, and most of the provisions that are included in my legislation are taken directly from the constitutional convention that was held by the people.

Senator WEICKER. Thank you very much.

Congressman Blaz, I would like to recognize your efforts on the Guam lands legislation, and of course we'll carefully consider any changes which are made as this measure moves forward in the House.

Are there areas of change which you're anticipating?

Mr. BLAZ. Areas of change, sir?

Senator WEICKER. Yes, in the House.

Mr. BLAZ. In the——

Senator WEICKER. As the legislation moves through the House, as far as the disposition of the surplus land.

Mr. BLAZ. Well, I have a companion bill, sir, that I'm working with you on this same issue here, and the areas of change that I can think of right now is simply that the argument in the past has always been that we should withhold and hold off on this thing until such time as the so-called threat is gone. I make the claim right now, the statement that I don't think there is that threat.

And as far as how to handle it for us on Guam, I'm sure that the representatives from Guam will speak, and the Governor and others, will probably have some thoughts on it. But my feeling on it is this: That since we are now under the territory of Guam instead of a Commonwealth that we're seeking, and since the Organic Act still says that the Department of the Interior has something to say about what happens on Guam, it is very important for us on Guam to include the Department of the Interior, the Department of Defense, in conjunction with the government of Guam, in trying to resolve some of the issues that we have.

Now the thing that has changed since I introduced the bill was that I envisioned a study of the situation, and in the meantime the Department of Defense, using the Navy as executive agent, conducted a study on Guam which I understand is to be finished this week. I think that study has already accomplished part of the things that have been anticipated. That's about all I can think of at this point, sir.

Senator WEICKER. There are several options for the disposal of surplus lands in Guam. Parcels could be sold to the original landowner, sold to a corporation of all original landowners, or transferred to the government of Guam. Which of the options do you prefer?

Mr. BLAZ. The most desirable option, sir, for the people of Guam from their perspective is to get the land back to the original owners. Give the original owners a chance to purchase that land—either give it back to them, or give them an opportunity to purchase it at a price that can be arrived at. That would be the most desirable.

From a realistic standpoint, as I outlined in the bill, it may be necessary, however, to coordinate this thing here because the question of nonalienation of land is very, very important. Were you to deal directly with the landowner, the landowner could conceivedly be opposed by other people and other outside interests may alienate this land.

What I think is best for us to do would be to chop off the land from the Federal Government, give it to the people of Guam through the government of Guam, and local law already permits the legislature of Guam to work with the government of Guam to resolve just exactly what is to happen to the land on Guam locally. To me, it might be more advisable for us to work on something like that, rather than to have at this level decreed how it's to be handled.

But from a personal standpoint, I know the people of Guam would want to have an opportunity for the original landowners to have a first crack at it, if it's possible.

Senator WEICKER. Thank you very much.

Congressman Sunia, could you please explain how you received approval from the Judicial Conference on the language of your amendment to have a change of venue for cases involving American Samoa?

Mr. SUNIA. Mr. Chairman, as you know, Hon. Anthony Kennedy, who serves on the U.S. Court of Appeals for the Ninth Circuit Court, chairs the Pacific Territories Committee of the Judicial Conference of the United States. Having previously corresponded with Judge Kennedy on this issue, I met with him in Honolulu last April and we had a long and positive discussion on whether we should integrate the courts of American Samoa into the Federal system.

It was decided that for the present all we should seek is a simple change of venue for cases arising in American Samoa against the Secretary of the Interior in his capacity as the Administrator of the territory.

Over the last 8 months, my staff has kept in touch with Judge Kennedy and his assistants, and has submitted various drafts of the statutory language to effect such a change. Last Friday, Judge Kennedy's assistants here at the Administrative Office of the U.S. Courts sent my staff a final text, and this came with the Judge's approval. The letter that you most kindly allowed me to enter into the record is an original copy of that text from the Administrative Office.

Senator WEICKER. Thank you very much.

Gentlemen, thank you very much. I appreciate your giving of your time, and your statements will be included in their entirety in the record. I know that, very frankly, each of you works very closely with this committee day in and day out, and we look forward to wrapping these matters up as expeditiously as possible.

The next panel will consist of Hon. Ricardo Bordallo, Governor of Guam; Hon. Carl T.C. Gutierrez, speaker of the Guam Legislature; Hon. Frank Quitugua of the Guam Legislature; and Hon. Frank

Santos, chairman of the Committee on Federal, Foreign, and Legal Affairs.

Governor, why don't you start off.

STATEMENT OF HON. RICARDO J. BORDALLO, GOVERNOR OF GUAM

Governor **Bordallo**. Thank you, Senator Weicker, Senator Hecht, distinguished guests:

Before I proceed with my short oral statement, you will recall, Senator Weicker, when I first came here as the newly elected Governor back in 1983, and there was a very vital program that needed the understanding of your committee; namely, the amount of appropriation for the Tumon Bay infrastructure. I just want for the record, on behalf of the people of Guam, to thank you again, because it was through your personal intervention and confidence, and I want to state that your confidence has not been improperly placed because we met your requirements. You were worried about whether that was too much money, and we won't be able to spend it on time, and would it really actually do the job that was intended. Well, let me tell you, Senator, if it weren't for your confidence we would have really been in deep trouble today, because the hotels that have to be developed in Tumon would have not happened if there wasn't already physical evidence that this infrastructure was coming in place and they're coming simultaneously. So the people of Guam are deeply indebted to you, sir.

Senator **Weicker**. Thank you.

Governor **Bordallo**. So on behalf of the people of Guam, I am most pleased at the opportunity to present testimony on legislation to return Federal lands, for this is an issue which strikes at the very heart and minds of our people. I am equally pleased to present testimony on other concerns of major importance to us.

For the record, I have submitted the full text of my testimony. I will now summarize that testimony.

I must say, with all candor, that the land legislation bill has been a long time coming. We are most pleased that you are striving to effect the intent of your congressional predecessors who back in 1949 laid the groundwork on orderly transfer of governmental control and Government lands back to the people of Guam, and we are most appreciative of your efforts in this endeavor.

As it may be a long time before another opportunity such as this is afforded to us, it is necessary and vitally important that we voice our concerns to ensure that the legislation is sound and responsive to our needs. I must preface my testimony with the premise that the lands which are the subject of today's hearing are fundamentally the property of the Guamanian people. The lands are the life and the blood of the Guamanian people's heritage and their hope for the future. Without land, we are unable to become economically able to support ourselves. Thus, any lands that the Department of Defense or any Federal agency have come into possession as a result of the devastation and turmoil of World War II is the property of the Guamanian people to have unfettered by continuing considerations by agencies outside of Guam. We would be best able to determine our properties' use and planning.

It is our understanding that the House bill, H.R. 2884, will be the focus of consideration by this committee. Therefore, the majority of my comments shall be directed to the House language.

It is noted in the House version that only lands declared excess after 1979 would fall under the purview of the act should it become law. As you are aware, all of the parcels which were negotiated with the General Services Administration were declared excess after 1979. It follows, then, that these lands would be affected by this act.

The people of Guam wish to vehemently express objections to this provision. All of the activities surrounding the GSA disposal strategy were done in consonance with military planning requirements. Excess reports had been issued, and the government of Guam had made known its intention to obtain those lands. We even went to the extent of negotiating a price in good faith for these lands, despite the extensive burden on our coffers.

To subject these properties to yet another round of study is totally unacceptable to us, given the historical perspective of these properties and the financial outlays that our government has expended for close to 10 years.

In addition, both the House and the Senate version fail to identify the responsible agency that would effectuate the transfer of excess lands to the people of Guam. Moreover, it should be noted that not all of the Federal land holdings in Guam are owned by the Department of Defense. We suggest that the final version of the bill should include language covering land holdings of other Federal agencies.

The single most troublesome provision in both bills is the role that the Department of Interior and DOD play in the land disposal procedures of excess lands which have no future DOD use. We take exception to the oversight of the Secretaries of Defense and Interior on the government of Guam's views and disposal of the relevant lands. Such a requirement smacks of Federal paternalism and runs counter to Federal policy. We request that it be removed from consideration.

Additionally, we suggest that language on submerged lands in excess land identification guaranteeing the transfer of these lands to our people be included.

I would like to point out that the reversionary clauses included in the bills have proven problematic. From an economic development standpoint, such requirements place an undue burden on our attempts to plan and carry out economic development strategies.

As to those properties which have been reserved for future defense-related activities which our local government has made improvements and developments, I request that language be included to reimburse the government of Guam for any development costs. Failure to include such a provision would more than likely dissuade local interest in developing these sites.

Lastly, we are very pleased with the sections dealing with the Brooks amendment. The removal of this stipulation will greatly help us in the realization of our development plans within the commercial port. There are, however, rather restrictive conditions imposed on other land dispositions which have proven burdensome to our territory. Nevertheless, we are hopeful that those conditions will be removed by this act.

I would like to now offer some brief comments on H.R. 2478 and its proposed amendments. I would like to state that I am supportive of this bill. It contains provisions which are vital to us. Vocational education is a matter of extreme importance to the Guamanian people. I had brought to the House's attention Guam's exclusion. Guam had received assistance in the past and should have continued to receive assistance for this valuable program. As you know, there is a real need for vocational education on Guam. I am pleased to see language included in H.R. 2478 so that this program can once again be available to our Guamanian people. In view of the unemployment conditions on Guam, this program is necessary.

I am also quite pleased with Guam's proposed eligibility for the Justice Assistance Act. Juvenile delinquency is a recent phenomenon on Guam and it is growing at an alarming rate. It was unfortunate that Guam was initially excluded from this program.

I would like, however, to bring to the attention of the committee that I have serious reservations on the amendment of section 29(b) of the Organic Act at this time. The Organic Act will soon be obsolete. Our major concerns should be focused on our island's future, our Commonwealth, and our constitution. Any changes to section 29(b) can be addressed more appropriately through the commonwealth efforts.

In closing, I hope that all of my comments shall significantly contribute to this committee's future deliberation on all of the issues touched upon today. I, together with the people of Guam, would like to offer our most si yu'us ma'ase.

And since Congressman Blaz mentioned about the bill on the prosecutor, and as I just alluded on the amendment to the Organic Act, I am not adding any oral comments, but actually have submitted written testimony, Mr. Chairman, because I'm advised that we are to limit our oral comments just to the main subject of this hearing, and I agree with that. But otherwise, we have a pretty comprehensive written testimony.

Again, thank you very much, sir.

[The prepared statement of Governor Bordallo follows:]

TESTIMONY
OF
THE HONORABLE RICARDO J. BORDALLO
GOVERNOR OF GUAM

BEFORE THE SENATE COMMITTEE ON ENERGY & NATURAL RESOURCES
UNITED STATES CONGRESS
ON FEDERAL LANDS LEGISLATION

SD-366 DIRKSEN SENATE OFFICE BUILDING
03 DECEMBER 1985

MR. CHAIRMAN, SENATORS, AND DISTINGUISHED GUESTS.

ON BEHALF OF THE PEOPLE OF GUAM, I AM MOST PLEASED AT THE OPPORTUNITY TO PRESENT TESTIMONY ON LEGISLATION TO RETURN FEDERAL LANDS, FOR THIS IS AN ISSUE WHICH STRIKES AT THE VERY HEART AND MINDS OF OUR PEOPLE. I AM EQUALLY PLEASED TO PRESENT TESTIMONY ON OTHER CONCERNS OF MAJOR IMPORTANCE TO US.

I MUST SAY WITH ALL CANDOR THAT A LAND LEGISLATION BILL HAS BEEN A LONG TIME COMING.

WE ARE MOST PLEASED THAT YOU ARE STRIVING TO EFFECT THE INTENT OF YOUR CONGRESSIONAL PREDECESSORS, WHO, BACK IN 1949, LAID THE GROUNDWORK FOR AN ORDERLY TRANSFER OF GOVERNMENTAL CONTROL AND GOVERNMENT LANDS BACK TO THE PEOPLE OF GUAM. AND WE ARE MOST APPRECIATIVE OF YOUR EFFORTS IN THIS ENDEAVOR.

AS IT MAY BE A LONG TIME BEFORE ANOTHER OPPORTUNITY SUCH AS THIS IS AFFORDED TO US, IT IS NECESSARY AND VITALLY IMPORTANT THAT WE VOICE OUR CONCERNS TO ENSURE THAT THE LEGISLATION IS SOUND AND RESPONSIVE TO OUR NEEDS.

I MUST PREFACE MY TESTIMONY WITH THE PREMISE THAT THE LANDS WHICH ARE THE SUBJECT OF TODAY'S HEARING ARE FUNDAMENTALLY THE PROPERTY OF THE GUAMANIAN PEOPLE. THE LANDS ARE THE LIFE AND THE BLOOD OF THE GUAMANIAN PEOPLE'S HERITAGE AND THEIR HOPE FOR THE FUTURE. WITHOUT LAND, WE ARE UNABLE TO BECOME ECONOMICALLY ABLE TO SUPPORT OURSELVES. THUS, ANY LANDS THAT THE DEPARTMENT OF DEFENSE OR ANY FEDERAL AGENCY HAVE COME INTO POSSESSION AS A RESULT OF THE DEVASTATION AND TURMOIL OF WORLD WAR II IS THE PROPERTY OF THE GUAMANIAN PEOPLE TO HAVE UNFETTERED BY CONTINUING CONSIDERATIONS BY AGENCIES OUTSIDE OF GUAM. WE WOULD BE BEST ABLE TO DETERMINE OUR PROPERTIES' USE AND PLANNING.

IT IS OUR UNDERSTANDING THAT THE HOUSE BILL, H.R. 2884, WILL BE THE FOCUS OF CONSIDERATION BY THIS COMMITTEE. THEREFORE, THE MAJORITY OF MY COMMENTS SHALL BE DIRECTED TO THE HOUSE LANGUAGE.

IT IS NOTED IN THE HOUSE VERSION THAT ONLY LANDS DECLARED EXCESS AFTER 1979 WOULD FALL UNDER THE PURVIEW OF THE ACT SHOULD IT BECOME LAW. AS YOU ARE AWARE, ALL OF THE PARCELS WHICH WERE NEGOTIATED WITH THE GENERAL SERVICES ADMINISTRATION WERE DECLARED EXCESS AFTER 1979. IT FOLLOWS THEN THAT THESE LANDS WOULD BE AFFECTED BY THIS ACT.

THE PEOPLE OF GUAM WISH TO VEHEMENTLY EXPRESS OBJECTIONS TO THIS PROVISION. ALL OF THE ACTIVITIES SURROUNDING THE G.S.A. DISPOSAL STRATEGY WERE DONE IN CONSONANCE WITH MILITARY PLANNING REQUIREMENTS. EXCESS REPORTS HAD BEEN ISSUED AND THE GOVERNMENT OF GUAM HAD MADE KNOWN ITS INTENTION TO OBTAIN THOSE LANDS; WE EVEN WENT TO THE EXTENT OF NEGOTIATING A PRICE IN GOOD FAITH FOR THESE LANDS, DESPITE THE EXTENSIVE BURDEN ON OUR COFFERS.

TO SUBJECT THESE PROPERTIES TO YET ANOTHER ROUND OF STUDY IS TOTALLY UNACCEPTABLE TO US, GIVEN THE HISTORICAL PERSPECTIVE OF

THESE PROPERTIES AND THE FINANCIAL OUTLAYS THAT OUR GOVERNMENT HAD EXPENDED FOR CLOSE TO TEN YEARS. IN ADDITION, BOTH THE HOUSE AND SENATE VERSIONS FAIL TO IDENTIFY THE RESPONSIBLE AGENCY THAT WOULD EFFECTUATE THE TRANSFER OF EXCESS LANDS TO THE PEOPLE OF GUAM.

MOREOVER, IT SHOULD BE NOTED THAT NOT ALL OF THE FEDERAL LAND HOLDINGS IN GUAM ARE OWNED BY THE DEPARTMENT OF DEFENSE. WE SUGGEST THAT THE FINAL VERSION OF THE BILL SHOULD INCLUDE LANGUAGE COVERING LANDHOLDINGS OF OTHER FEDERAL AGENCIES.

THE SINGLE MOST TROUBLESOME PROVISION IN BOTH BILLS IS THE ROLE THAT THE DEPARTMENT OF INTERIOR AND D.O.D. PLAY IN THE LAND DISPOSAL PROCEDURES OF EXCESS LANDS WHICH HAVE NO FUTURE D.O.D. USE. WE TAKE EXCEPTION TO THE OVERSIGHT OF THE SECRETARIES OF DEFENSE AND INTERIOR ON THE GOVERNMENT OF GUAM'S USE AND DISPOSAL OF THE RELEVANT LANDS. SUCH A REQUIREMENT SMACKS OF FEDERAL PATERNALISM AND RUNS COUNTER TO FEDERAL POLICY. WE REQUEST THAT IT BE REMOVED FROM CONSIDERATION.

ADDITIONALLY, WE SUGGEST THAT LANGUAGE ON SUBMERGED LANDS IN EXCESS LAND IDENTIFICATION GUARANTEEING THE TRANSFER OF THESE LANDS TO OUR PEOPLE BE INCLUDED.

I WOULD LIKE TO POINT OUT THAT THE REVERSIONARY CLAUSES INCLUDED IN THE BILLS HAVE PROVEN PROBLEMATIC. FROM AN ECONOMIC DEVELOPMENT STANDPOINT, SUCH REQUIREMENTS PLACE AN UNDUE BURDEN ON OUR ATTEMPTS TO PLAN AND CARRY OUT ECONOMIC DEVELOPMENT STRATEGIES.

AS TO THOSE PROPERTIES WHICH HAVE BEEN RESERVED FOR FUTURE DEFENSE-RELATED ACTIVITIES WHICH OUR LOCAL GOVERNMENT HAS MADE IMPROVEMENTS AND DEVELOPMENTS, I REQUEST THAT LANGUAGE BE INCLUDED TO REIMBURSE THE GOVERNMENT OF GUAM FOR ANY DEVELOPMENT COSTS. FAILURE TO INCLUDE SUCH A PROVISION WOULD MORE THAN LIKELY DISSUADE LOCAL INTEREST IN DEVELOPING THESE SITES.

LASTLY, WE ARE VERY PLEASED WITH THE SECTIONS DEALING WITH THE BROOKS AMENDMENT. THE REMOVAL OF THIS STIPULATION WILL GREATLY HELP US IN THE REALIZATION OF OUR DEVELOPMENT PLANS WITHIN THE COMMERCIAL PORT. THERE ARE, HOWEVER, RATHER RESTRICTIVE CONDITIONS IMPOSED ON OTHER LAND DISPOSITIONS WHICH HAVE PROVEN BURDENSOME TO OUR TERRITORY. NEVERTHELESS, WE ARE HOPEFUL THAT THOSE CONDITIONS WILL BE REMOVED BY THIS ACT.

I WOULD LIKE TO NOW OFFER SOME BRIEF COMMENTS ON H.R. 2478 AND ITS PROPOSED AMENDMENTS. I WOULD LIKE TO STATE THAT I AM SUPPORTIVE OF THIS BILL. IT CONTAINS PROVISIONS WHICH ARE VITAL TO US. VOCATIONAL EDUCATION IS A MATTER OF EXTREME IMPORTANCE TO THE GUAMANIAN PEOPLE. I HAD BROUGHT TO THE HOUSE'S ATTENTION GUAM'S EXCLUSION. GUAM HAD RECEIVED ASSISTANCE IN THE PAST AND SHOULD HAVE CONTINUED TO RECEIVE ASSISTANCE FOR THIS VALUABLE PROGRAM. AS YOU KNOW, THERE IS A REAL NEED FOR VOCATIONAL EDUCATION ON GUAM. I AM PLEASED TO SEE LANGUAGE INCLUDED WITHIN H.R. 2478 SO THAT THIS PROGRAM CAN ONCE AGAIN BE AVAILABLE TO

OUR GUAMANIAN PEOPLE. IN VIEW OF THE UNEMPLOYMENT CONDITIONS ON GUAM, THIS PROGRAM IS NECESSARY.

I AM ALSO QUITE PLEASED WITH GUAM'S PROPOSED ELIGIBILITY FOR THE JUSTICE ASSISTANCE ACT. JUVENILE DELINQUENCY IS A RECENT PHENOMENON ON GUAM AND IT IS GROWING AT AN ALARMING RATE. IT WAS UNFORTUNATE THAT GUAM WAS INITIALLY EXCLUDED FROM THIS PROGRAM.

I WOULD LIKE, HOWEVER, TO BRING TO THE ATTENTION OF THE COMMITTEE THAT I HAVE SERIOUS RESERVATIONS ON THE AMENDMENT OF SECTION 29(B) OF THE ORGANIC ACT AT THIS TIME. THE ORGANIC ACT WILL SOON BE OBSOLETE. OUR MAJOR CONCERNS SHOULD BE FOCUSED ON OUR ISLAND'S FUTURE -- OUR COMMONWEALTH AND OUR OWN CONSTITUTION. ANY CHANGES TO SECTION 29(B) CAN BE ADDRESSED MORE APPROPRIATELY THROUGH OUR COMMONWEALTH EFFORTS.

WITH REGARDS TO THE ESTABLISHMENT OF THE OFFICE OF PUBLIC PROSECUTOR, LET ME BEGIN BY STATING THAT I AM NOT IN FAVOR OF AN ELECTED PROSECUTOR.

ALTHOUGH ELECTED PROSECUTOR AND ATTORNEY GENERAL POSITIONS MAY WORK WELL IN SOME PLACES ON THE MAINLAND, ON AN ISLAND THE SIZE OF GUAM THE INTIMACY OF THE POLITICAL PROCESS DOES NOT LEND ITSELF WELL TO THE SENSITIVE OBJECTIVITY NECESSARY FOR FAIR AND IMPARTIAL CRIMINAL PROSECUTIONS. HOW CAN THE INTRODUCTION OF PARTISAN POLITICS INTO THE PROSECUTORIAL SYSTEM LEAD TO A GREATER ASSURANCE OF IMPARTIALITY?

LET ME POINT OUT ONE STARK FACT. OUR CURRENT SYSTEM IS WORKING. THE DEPARTMENT OF LAW NOW FUNCTIONS AT A LEVEL OF EFFICIENCY AND EFFECTIVENESS NEVER BEFORE EQUALLED IN LOCAL GOVERNMENT ON OUR ISLAND. BY HAVING ALL LEGAL DIVISIONS UNDER THE CENTRAL CONTROL OF THE ATTORNEY GENERAL, THE DEPARTMENT OF LAW IS NOW ABLE TO MARSHAL RESOURCES FOR COMPLICATED WHITE COLLAR AND FRAUD CASES.

TIME HAS SHOWN US AGAIN AND AGAIN THAT IT IS THE CALIBER OF THE MEN AND WOMEN WHO DISCHARGE THESE DUTIES, NOT THE GOVERNMENTAL SYSTEM IN WHICH THEY WORK, THAT DICTATES THE QUALITY AND INTEGRITY OF OUR CRIMINAL JUSTICE SYSTEM.

MORE IMPORTANTLY, IF THE TERRITORY OF GUAM SHOULD INDEED HAVE AN ELECTED PUBLIC PROSECUTOR, THEN THE APPROPRIATE PLACE TO DECIDE THAT ISSUE WOULD BE ON GUAM. BY DEALING WITH THIS PARTICULAR ISSUE ON THE FEDERAL LEVEL, ARE WE NOT INDEED SAYING THAT INDEPENDENT PROSECUTIONS ON GUAM CAN ONLY BE POSSIBLE IF THE FEDERAL GOVERNMENT INTERVENES ON OUR BEHALF? AGAIN, THIS A TOPIC MORE APPROPRIATELY ADDRESSED THROUGH OUR COMMONWEALTH EFFORTS.

IN REGARDS TO H.R. 3118, I WOULD STATE WITHOUT RESERVATION MY SUPPORT FOR THIS BILL. THIS LEGISLATION IS NECESSARY TO CORRECT A CLEAR EXAMPLE OF AN UNFAIR AND INAPPROPRIATE RULE WHICH ACTUALLY PENALIZES OUR OWN AMERICAN SHIPOWNERS; AND WHICH HAS A

DETRIMENTAL EFFECT ON OUR LOCAL ECONOMY. I HAVE REQUESTED TWO EXTENSIONS TO ALLOW FOREIGN CREWMEN TO GO OFFSHORE. THE SECOND EXTENSION, HOWEVER, WILL EXPIRE ON 31 DECEMBER 1985. THUS, WE REQUEST THE MOST EXPEDITIOUS PASSAGE OF THIS BILL.

ON MY REQUEST FOR OUR EXEMPTION FROM THE USE OF U.S. BUILT DREDGES, WE WOULD SEEK THE COMMITTEE'S SUPPORT. THE USE OF AMERICAN-BUILT DREDGES ON GUAM APPROXIMATELY 6,000 MILES FROM THE U.S. MAINLAND INCREASES GUAM'S COSTS BY APPROXIMATELY $900,000.00 PER PROJECT. GIVEN GUAM'S DISTANCE FROM THE MAINLAND, THE AVAILABILITY OF SIGNIFICANTLY LESS EXPENSIVE FOREIGN-BUILT DREDGES IN THE FAR EAST AND GUAM'S SCARCITY OF RESOURCES, IT IS IMPERATIVE THAT GUAM BE EXEMPTED FROM THE REQUIREMENT TO USE U.S. BUILT DREDGES. I WOULD ALSO STRESS TO THE COMMITTEE THAT ONLY GUAM OF ALL THE INSULAR AND TRUST TERRITORIES IS SUBJECT TO THE U.S. BUILT DREDGE REQUIREMENT.

IN REGARDS TO H.R. 3758, THE WAR REPARATIONS BILL, I AM AN ENTHUSIASTIC PROPONENT IN PRINCIPLE OF ANY LEGISLATION THAT COMPENSATES THE GUAMANIAN PEOPLE FOR THEIR SUFFERING, PAIN, LOSS OF LIFE AND DEVASTATION OF PROPERTY AS A RESULT OF WORLD WAR II. IT WAS UNFAIR AND INAPPROPRIATE FOR THE U.S. GOVERNMENT TO RENOUNCE OUR FUNDAMENTAL LEGAL RIGHT FOR WAR REPARATIONS. I AM HOPEFUL A COMPTROLLER GENERAL STUDY WILL PROVIDE ADDITIONAL VALIDITY TO OUR RIGHT FOR WAR REPARATIONS. I WOULD PROPOSE, HOWEVER, THAT THE COMPTROLLER GENERAL STUDY BE COMPLETED WITHIN THREE MONTHS.

IN CLOSING, I HOPE THAT ALL OF MY COMMENTS SHALL SIGNIFICANTLY CONTRIBUTE TO THIS COMMITTEE'S FUTURE DELIBERATION ON ALL OF THE ISSUES TOUCHED UPON TODAY. I, TOGETHER WITH THE PEOPLE OF GUAM, WOULD LIKE TO OFFER OUR MOST SI YU'US MA'ASE. THANK YOU VERY MUCH.

Senator **Weicker**. Thank you very much, Governor. All written testimony will be included in its entirety in the record for examination by the full committee.

Senator Gutierrez.

STATEMENT OF HON. CARL T.C. GUTIERREZ, SPEAKER, GUAM LEGISLATURE

Mr. **Gutierrez**. Thank you, Mr. Chairman.

Good morning, members of this distinguished committee. With me today is two senators that will speak to two different issues, Senator Quitugua of the education will speak on 29(b); and Senator Santos on the land issue. But I want to take this opportunity to possibly use to further amend 2478 as a vehicle that deals with the independent public prosecutor, independent public auditor, and the independent civil service commission.

This legislation is endorsed by Congressman Blaz, and I thank him for that, but creation of these offices, Mr. Chairman, is the solution for a problem that has plagued Guam all too often in recent years—and that is, corruption. No government is immune from this problem, but lately Guam seems to have suffered more than its share of abuses.

There was the last administration's $26 million road-paving scandal. Then the Federal extortion conviction of several GovGuam officials, plus food stamp fraud, improper contracts, and various illegal activities throughout government. Things are just getting out of hand, Mr. Chairman.

In my view, the problems of corruption on Guam stems largely from excessive political interference in divisions of government that need freedom from politics to be effective. Attorneys general on Guam, for example, depend on the Governor for their jobs. Thus, very few AG's will prosecute the administration's political allies. The same applies to auditors—few will reveal fraud that would embarrass the Governor. The bottom line is, Mr. Chairman, that prosecutors and auditors without independence is like guard dogs without teeth. The secret to beating corruption is simple: Give those guard dogs the independence they need.

Before we can move forward, however, we need Congress' help. Right now Federal law is tying our hands behind our back. We cannot legally create these offices in an independent fashion because the Federal Organic Act forbids it. The act's sweeping grant of power to the executive branch already has blocked two futile attempts by the legislature to create an independent special prosecutor. Both attempts were struck down by the courts as "inorganic."

All I ask today is that Guam be freed from these Federal handcuffs and allowed to fix our government with our own hands. The legislation Congressman Blaz and I are urging holds the key. The legislation would amend the Organic Act to expressly permit the legislature to create these offices in an independent fashion.

The proposal authorizes the legislature to establish such offices and to design procedures for selecting officeholders. Once the offices are established by local law, the legislature could not amend such law for 6 years, in order to ensure real independence. After such 6-year period, any amendments to this law would be followed by additional 6-year periods during which the legislature would again be prohibited from making further changes.

The proposal would not require Guam to establish such offices, nor would it dictate how they will be organized. These are local issues and should be decided by the people of Guam through their elected representatives. All the legislation does that we're seeking essentially is eliminate the Federal restrictions that stand in our way.

Most members of the legislature, and I believe most of Guam's citizens, do strongly support creating these independent offices. In fact, the Eighteenth Guam Legislature just last week recently adopted Resolution No. 217, which wholeheartedly endorses this proposal.

Let me just briefly address each of these proposed offices, Mr. Chairman.

An independent public prosecutor, in my view, represents the most effective means available for reducing corruption on Guam. Prosecutors need freedom from political pressure in order to attack corruption within the administration's camp. Yet now, as I explained earlier, the attorney general is the Governor's captive. No matter how honest or well meaning, he simply must respond to political pressures to keep his job. It should thus come as no surprise that prosecutions of high level officials are very rare, except when a new administration occasionally decides to crack down on its predecessors.

The white collar crime task force created by the current administration reflects this historical pattern. The task force does have some commendable accomplishments. Yet it is anything but independent and, in fact, is headed by the Lieutenant Governor. Predictably, the vast majority of its cases concern illegalities perpetrated during the term of the previous administrations.

The need for an independent public prosecutor goes hand in hand with the need for an independent public auditor. Only continual oversight by nonpolitical auditors can eliminate the fraud and inefficiencies plaguing our government. Currently, independent government auditing is limited to isolated investigations by the Interior Department's inspector general. Yet the IG's sporadic reports are issued long after problems arise. This is too little too late. The Government of Guam needs an independent local auditor back on Guam breathing down its neck at all times. This is the only way that irregularities can be effectively deterred or at least detected before they develop into financial disasters.

Let me turn now to the need for an independent civil service commission. This aspect of our proposal responds to a specific type of corruption on Guam: the corrupting of our civil service merit system. As you know, about a year ago all the members of the Guam Civil Service Commission were forced to resign or relieved of their duties. Once again, partisan politics was injected into a system designed to protect employees from politics.

As a result of last year's mass firing, the whole merit system has been undermined. Government officials are thus virtually defenseless when threated with political pressures. Their fate will remain at the mercy of the political power brokers until Guam is allowed to design a civil service commission that is truly independent.

The need for an independent public prosecutor, public auditor, and civil service commission ultimately should be addressed in a constitutional convention pursuant to the Guam Commonwealth Act. I am a member of the commission on self-determination and am fully committed to leading Guam toward Commonwealth status. But I am also a realist, Mr. Chairman, and I know it will be quite some time before a Commonwealth Act is passed, signed into law, and approved by Guam voters. It will even be longer before a constitutional convention is then called and completed.

We cannot afford to wait. The problems of corruption, inefficiency, and political meddling are all too urgent, too severe, and too costly, and they must be addressed now.

So I would like to leave it at that, Mr. Chairman, and I hope that any vehicle could be used at this moment to effectuate these new offices.

[The prepared statement of Mr. Gutierrez follows:]

TO FURTHER AMEND H.R 2478

TESTIMONY OF
CARL T.C. GUTIERREZ
SPEAKER, EIGHTEENTH GUAM LEGISLATURE

BEFORE THE
COMMITTEE ON ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE
DECEMBER 3, 1985

GOOD MORNING MR. CHAIRMAN AND MEMBERS OF THIS DISTINGUISHED COMMITTEE. MY NAME IS CARL GUTIERREZ AND I AM SPEAKER OF THE EIGHTEENTH GUAM LEGISLATURE.

I WANT TO FIRST THANK YOU FOR THE OPPORTUNITY TO TESTIFY TODAY AND FOR ARRANGING THIS VERY IMPORTANT AND TIMELY HEARING. THIS COMMITTEE HAS AN OUTSTANDING RECORD OF LEADERSHIP IN TERRITORIAL AFFAIRS AND, MR. CHAIRMAN, WE ON GUAM ARE ESPECIALLY APPRECIATIVE OF ALL YOUR HELP AND HARD WORK. AS WE SAY IN CHAMORRO: **SI YUUS MAASE - THANK YOU.**

I ALSO WANT TO TAKE THIS OPPORTUNITY TO THANK CONGRESSMAN BLAZ FOR HIS HELP AND HIS WILLINGNESS TO SEEK AN AMENDMENT TO HIS ORIGINAL BILL CREATING A PUBLIC PROSECUTOR. THIS SPIRIT OF BIPARTISAN COOPERATION IS CERTAINLY APPRECIATED.

THE LEGISLATION I AM PROPOSING, WHICH CONGRESSMAN BLAZ HAS GRACIOUSLY AGREED TO SUPPORT, WOULD AUTHORIZE THE CREATION OF THREE NEW OFFICES ON GUAM:

1) AN INDEPENDENT PUBLIC PROSECUTOR,
2) AN INDEPENDENT PUBLIC AUDITOR, AND
3) AN INDEPENDENT CIVIL SERVICE COMMISSION.

CREATION OF THESE OFFICES IS THE SOLUTION FOR A PROBLEM THAT HAS PLAGUED GUAM ALL TOO OFTEN IN RECENT YEARS: CORRUPTION. NO GOVERNMENT IS IMMUNE FROM THIS

PROBLEM, BUT LATELY GUAM SEEMS TO HAVE SUFFERED MORE THAN ITS SHARE OF ABUSES. THERE WAS THE LAST ADMINISTRATION'S $26 MILLION DOLLAR ROAD PAVING SCANDAL. THEN THE FEDERAL EXTORTION CONVICTION OF SEVERAL GOVGUAM OFFICIALS. PLUS FOOD STAMP FRAUD, IMPROPER CONTRACTS, AND VARIOUS OTHER ILLEGAL ACTIVITIES THROUGHOUT GOVERNMENT. THINGS JUST SEEM TO BE GETTING OUT OF HAND.

IN MY VIEW, THE PROBLEM OF CORRUPTION ON GUAM STEMS LARGELY FROM EXCESSIVE POLITICAL INFERFERENCE IN DIVISIONS OF GOVERNMENT THAT NEED FREEDOM FROM POLITICS TO BE EFFECTIVE. ATTORNEY GENERALS ON GUAM, FOR EXAMPLE, DEPEND ON THE GOVERNOR FOR THEIR JOBS. THUS, FEW AG'S WILL PROSECUTE THE ADMINISTRATION'S POLITICAL ALLIES. THE SAME APPLIES TO AUDITORS -- FEW WILL REVEAL FRAUD THAT EMBARRASSES THE GOVERNOR. THE BOTTOM LINE IS THIS:

PROSECUTORS AND AUDITORS WITHOUT INDEPENDENCE ARE GUARD DOGS WITHOUT TEETH. AND OFFICIALS THROUGHOUT GOVERNMENT KNOW IT!

THE SECRET TO BEATING CORRUPTION IS SIMPLE: GIVE THESE GUARD DOGS THEIR INDEPENDENCE. UNLEASH THEM FROM POLITICAL CONSTRAINTS AND SET THEM LOOSE ON GOVERNMENT OFFICIALS WHO ABUSE PUBLIC POWER. THEN, AND ONLY THEN, WILL ATTACKS ON CORRUPTION HAVE REAL BITE.

BEFORE WE CAN MOVE FORWARD, HOWEVER, WE NEED CONGRESS'S HELP. RIGHT NOW, FEDERAL LAW IS TYING OUR HANDS BEHIND OUR BACK. WE CANNOT LEGALLY CREATE THESE OFFICES IN AN INDEPENDENT FASHION BECAUSE THE FEDERAL ORGANIC ACT FORBIDS IT. THE ACT'S SWEEPING GRANT OF POWER

TO THE EXECUTIVE BRANCH ALREADY HAS BLOCKED TWO FUTILE ATTEMPTS BY THE LEGISLATURE TO CREATE AN INDEPENDENT SPECIAL PROSECUTOR. BOTH ATTEMPTS WERE STRUCK DOWN BY THE COURTS AS "INORGANIC".

ALL I ASK TODAY IS THAT GUAM BE FREED FROM THESE FEDERAL HANDCUFFS AND ALLOWED TO FIX OUR GOVERNMENT WITH OUR OWN HANDS. THE LEGISLATION CONGRESSMAN BLAZ AND I ARE URGING HOLDS THE KEY. THE LEGISLATION WOULD AMEND THE ORGANIC ACT TO EXPRESSLY PERMIT THE LEGISLATURE TO CREATE THESE OFFICES IN AN INDEPENDENT FASHION. THE PROPOSAL AUTHORIZES THE LEGISLATURE TO ESTABLISH SUCH OFFICES AND TO DESIGN PROCEDURES FOR SELECTING OFFICEHOLDERS. ONCE THE OFFICES ARE ESTABLISHED BY LOCAL LAW, THE LEGISLATURE COULD NOT AMEND SUCH LAW FOR SIX YEARS, IN ORDER TO ENSURE REAL INDEPENDENCE. AFTER SUCH SIX YEAR PERIOD, ANY AMENDMENTS TO THIS LAW WOULD BE

FOLLOWED BY ADDITIONAL SIX YEAR PERIODS DURING WHICH THE LEGISLATURE WOULD AGAIN BE PROHIBITED FROM MAKING FURTHER CHANGES.

THIS PROPOSAL WOULD NOT REQUIRE GUAM TO ESTABLISH SUCH OFFICES, NOR WOULD IT DICTATE HOW THEY WILL BE ORGANIZED. THESE ARE LOCAL ISSUES AND SHOULD BE DECIDED BY THE PEOPLE OF GUAM THROUGH THEIR ELECTED REPRESENTATIVES. ALL THE LEGISLATION DOES, ESSENTIALLY, IS ELIMINATE THE FEDERAL RESTRICTIONS THAT STAND IN OUR WAY.

MOST MEMBERS OF THE LEGISLATURE, AND I BELIEVE MOST OF GUAM'S CITIZENS, DO STRONGLY SUPPORT CREATING SUCH INDEPENDENT OFFICES. IN FACT, THE EIGHTEENTH GUAM LEGISLATURE RECENTLY ADOPTED RESOLUTION NO. 217, WHICH WHOLEHEARTEDLY ENDORSES THIS PROPOSAL. THE RESOLUTION WAS ADOPTED BY AN OVERWHELMING 15 TO 2 VOTE.

LET ME NOW BRIEFLY ADDRESS EACH OF THESE PROPOSED OFFICES.

AN INDEPENDENT PUBLIC PROSECUTOR, IN MY VIEW, REPRESENTS THE MOST EFFECTIVE MEANS AVAILABLE FOR REDUCING CORRUPTION ON GUAM. PROSECUTORS NEED FREEDOM FROM POLITICAL PRESSURE IN ORDER TO ATTACK CORRUPTION WITHIN THE ADMINISTRATION'S CAMP. YET NOW, AS I EXPLAINED EARLIER, THE ATTORNEY GENERAL IS THE GOVERNOR'S CAPTIVE. NO MATTER HOW HONEST OR WELL MEANING, HE SIMPLY MUST RESPOND TO POLITICAL PRESSURES TO KEEP HIS JOB. IT SHOULD THUS COME AS NO SURPRISE THAT PROSECUTIONS OF HIGH LEVEL OFFICIALS ARE VERY RARE, EXCEPT WHEN A NEW ADMINISTRATION OCCASIONALLY DECIDES TO CRACK DOWN ON ITS PREDECESSORS.

THE WHITE COLLAR CRIME TASK FORCE CREATED BY THE CURRENT ADMINISTRATION REFLECTS THIS HISTORICAL PATTERN. THE TASK FORCE DOES HAVE SOME COMMENDABLE ACCOMPLISHMENTS. YET IT IS ANYTHING BUT INDEPENDENT AND, IN FACT, IS HEADED BY THE LIEUTENANT GOVERNOR. PREDICTABLY, THE VAST MAJORITY OF ITS CASES CONCERN ILLEGALITIES PERPETRATED DURING THE TERM OF THE PREVIOUS ADMINISTRATION.

THE NEED FOR AN INDEPENDENT PUBLIC PROSECUTOR GOES HAND IN HAND WITH THE NEED FOR AN INDEPENDENT PUBLIC AUDITOR. ONLY CONTINUAL OVERSIGHT BY NON-POLITICAL AUDITORS CAN ELIMINATE THE FRAUD AND INEFFICIENCIES PLAGUING OUR GOVERNMENT. CURRENTLY, INDEPENDENT GOVERNMENT AUDITING IS LIMITED TO ISOLATED INVESTIGATIONS BY THE INTERIOR DEPARTMENT'S INSPECTOR GENERAL. YET THE IG'S SPORADIC REPORTS ARE ISSUED LONG AFTER PROBLEMS ARISE. THIS IS TOO LITTLE, TOO LATE. THE GOVERNMENT OF GUAM

NEEDS AN INDEPENDENT LOCAL AUDITOR BACK ON GUAM, BREATHING DOWN ITS NECK AT ALL TIMES. THIS IS THE ONLY WAY THAT IRREGULARITIES CAN BE EFFECTIVELY DETERRED OR AT LEAST DETECTED BEFORE THEY DEVELOP INTO FINANCIAL DISASTERS.

LET ME TURN NOW TO THE NEED FOR AN INDEPENDENT CIVIL SERVICE COMMISSION. THIS ASPECT OF OUR PROPOSAL RESPONDS TO A SPECIFIC TYPE OF CORRUPTION ON GUAM: THE CORRUPTING OF OUR CIVIL SERVICE MERIT SYSTEM. AS YOU MAY KNOW, ABOUT A YEAR AGO ALL THE MEMBERS OF THE GUAM CIVIL SERVICE COMMISSION WERE FORCED TO RESIGN OR RELIEVED OF THEIR DUTIES. ONCE AGAIN, PARTISAN POLITICS WAS INJECTED INTO A SYSTEM DESIGNED TO PROTECT EMPLOYEES FROM POLITICS.

AS A RESULT OF LAST YEAR'S MASS FIRING, THE WHOLE MERIT SYSTEM HAS BEEN UNDERMINED. GOVERNMENT OFFICIALS ARE THUS VIRTUALLY DEFENSELESS WHEN THREATENED BY POLITICAL

PRESSURES. THEIR FATE WILL REMAIN AT THE MERCY OF POLITICAL POWER BROKERS UNTIL GUAM IS ALLOWED TO DESIGN A CIVIL SERVICE COMMISSION THAT IS TRULY INDEPENDENT.

THE NEED FOR AN INDEPENDENT PUBLIC PROSECUTOR, PUBLIC AUDITOR AND CIVIL SERVICE COMMISSION ULTIMATELY SHOULD BE ADDRESSED IN A CONSTITUTIONAL CONVENTION PURSUANT TO THE GUAM COMMONWEALTH ACT. I AM A MEMBER OF THE COMMISSION ON SELF-DETERMINATION AND AM FULLY COMMITTED TO LEADING GUAM TOWARD COMMONWEALTH STATUS. BUT I AM ALSO A REALIST, AND I KNOW IT WILL BE QUITE SOME TIME BEFORE A COMMONWEALTH ACT IS PASSED, SIGNED INTO LAW, AND APPROVED BY GUAM VOTERS. IT WILL BE EVEN LONGER BEFORE A CONSTITUTIONAL CONVENTION IS THEN CALLED AND COMPLETED.

WE CANNOT AFFORD TO WAIT. THE PROBLEMS OF CORRUPTION, INEFFICIENCY, AND POLITICAL MEDDLING ARE TOO URGENT, TOO SEVERE, AND TOO COSTLY. THEY MUST BE ADDRESSED NOW.

THE LEGISLATION CONGRESSMAN BLAZ AND I ARE URGING TODAY IS SIMPLE AND COST-FREE. DON'T FORGET -- WE ARE NOT ASKING CONGRESS TO ESTABLISH AND DESIGN THESE INDEPENDENT OFFICES. WE ONLY WANT A BRIEF AMENDMENT TO THE ORGANIC ACT EXPRESSLY ALLOWING GUAM TO CREATE SUCH OFFICES IN A TRULY INDEPENDENT FASHION. THE LEGISLATION WOULD COST TAXPAYERS NOT ONE CENT, AND BEFORE LONG IT WOULD SAVE MORE THAN A PRETTY PENNY.

AN INDEPENDENT PUBLIC PROSECUTOR, AN INDEPENDENT PUBLIC AUDITOR, AND AN INDEPENDENT CIVIL SERVICE COMMISSION REPRESENT PRACTICAL, EFFECTIVE SOLUTIONS TO SOME OF GUAM'S MOST PRESSING PROBLEMS. THESE SOLUTIONS WILL PRODUCE

REAL, MEASURABLE RESULTS. ALL WE NEED NOW IS CONGRESS'S GREEN LIGHT. FREE US FROM THE SHACKLES OF FEDERAL LAW AND GUAM WILL HAVE A HEALTHIER GOVERNMENT THAT IS NOT ONLY MORE ETHICAL, BUT MORE EFFICIENT.

THANK YOU VERY MUCH.

EIGHTEENTH GUAM LEGISLATURE
1985 (FIRST) Regular Session

Resolution No. 217

Introduced by:

C. T. C. Gutierrez
A. C. Lamorena III
F. R. Santos

F. J. Quitugua
J. P. Aguon
J. F. Ada
E. P. Arriola
J. G. Bamba
F. F. Blas
H. D. Dierking
E. R. Duenas
F. J. Gutierrez
P. C. Lujan
M. D. A. Manibusan
T. S. Nelson
J. M. Rivera
J. T. San Agustin
T. V. C. Tanaka
A. R. Unpingco

Relative to requesting the United States Congress to amend the Organic Act of Guam to allow the creation of an independent Public Auditor, Public Prosecutor and Civil Service Commission.

BE IT RESOLVED BY THE LEGISLATURE OF THE TERRITORY OF GUAM:

WHEREAS, the Organic Act of Guam was passed by the United States Congress in 1950, creating a civilian government for the territory of Guam; and

WHEREAS, the Organic Act successfully afforded the people of Guam a new opportunity for self-government; and

WHEREAS, the Organic Act created a local government for Guam with three branches, in the image of the government of the United States, with its most salient self-governing characteristic being a locally elected legislature with full legislative powers to set the policy of the government of Guam; and

WHEREAS, originally, the Organic Act included an Executive Branch headed by an appointed Governor and appointed Secretary selected by the President of the United States; and

WHEREAS, the Organic Act provides for a judiciary established by Congress and for local courts established by the laws of Guam; and

WHEREAS, the founding fathers of the United States, in drafting the United States Constitution as a unified system of government with three separate branches, endeavored in this separation of powers to dilute the power of the Executive in order to guard against abuses associated with the concentration of power experienced under the European kings; and

WHEREAS, the Organic Act of Guam has been amended over the years in a gradual evolution towards more adequate self-government for Guam's people, and one important change was made in 1968 by the Elective Governor Act, providing for the local election of Guam's Governor and Lieutenant Governor and at the same time establishing a federal comptroller to oversee government spending; and

WHEREAS, the Elective Governor Act, U.S. Public Law 90-497, §1, 82 Stat. 842, left intact the plenary operation of the executive branch as it had previously operated under federally appointed governors, creating an imbalance in the system of checks and balances; and

WHEREAS, the Guam legislature has on two occasions attempted to establish an "Independent Special Prosecutor", both in 1974 in P.L. 12-173 and in 1982 in P.L. 16-72, as amended, to deal with local crime and corruption; and

WHEREAS, although the two attempts were sincere efforts to create an independent prosecutor within the framework of the Organic Act to deal with local problems, P.L. 12-173 was declared "inorganic" and was struck down by the courts in People v. Camacho, 1 Guam R. 501, and P.L. 16-72, as amended, was struck down in People v. Perez, D.C. Civ. App. 82-0215; and

WHEREAS, in late 1984 and early 1985, all the members of the Guam Civil Service Commission were forced to resign or were relieved of their duties, although an impartial Civil Service Commission is vital in insuring the proper and honest functioning of the employee merit system mandated by Section 9 of the Organic Act (48 USC §1422 c); and

WHEREAS, recently, the Federal Bureau of Investigation and a local White Collar Crime Task Force have been engaged in prosecuting government corruption; and

WHEREAS, the people of Guam desire to establish effective local mechanisms to stem corruption in a natural self-policing step in the evolution of Guam's self-government; now, therefore, be it

RESOLVED, that the Eighteenth Guam Legislature, on behalf of the people of Guam, and as the policy making body of the government of Guam, request Guam's Delegate to Congress to sponsor legislation amending the Organic Act of Guam to authorize the creation by the Guam Legislature of independent offices of Public Auditor and Public Prosecutor and an independent Civil Service Commission; and be it further

RESOLVED, that the Speaker certify to and the Legislative Secretary attest the adoption hereof and that copies of the same be thereafter transmitted to Ben Blaz, Guam's Delegate to Congress and to the Governor of Guam.

DULY AND REGULARLY ADOPTED ON THE 29TH DAY OF NOVEMBER, 1985.

Elizabeth P. Arriola
ELIZABETH P. ARRIOLA
Senator and
Legislative Secretary

CARL T. C. GUTIERREZ
Speaker

Senator WEICKER. Thank you very much, Senator.

Our next witness is Senator Quitugua.

STATEMENT OF HON. FRANKLIN J.A. QUITUGUA, SENATOR AND CHAIRMAN, EDUCATION COMMITTEE, GUAM LEGISLATURE

Mr. QUITUGUA. Thank you very much, Mr. Chairman.

I am directing my remarks on the proposal to amend section 29(b) of the Organic Act of Guam.

Chairman Weicker, and members of the Committee on Energy and Natural Resources, I am Franklin J. Quitugua, senator and chairman of the Committee on Education of the 17th and 18th Guam Legislatures. I am also a former director of the Guam Department of Education.

First of all, let me thank you for your time in hearing this proposed amendment. I trust that you will seriously consider this request as its impact on Guam is significant. The need to change and provide for greater continuity and stability in Guam's public educational leadership is great.

As section 29(b)—and I'm quoting now from a former Governor:

> As section 29(b) now reads, an overly ambitious man might, in the future, interpret the word "operate" literally and proceed to subvert the schools and make them completely responsive to his will rather than the will of the people.

These are the words of Guam's first Chamorro Governor, Gov. Joseph Flores, at Guam's first constitutional convention in 1969. So you see, the demand for change is not new. In 1969 Governor Flores could not have possibly seen the impact that 29(b) would have on Guam education in 1985, but his comments are hauntingly accurate.

When Guam's Organic Act was approved by Congress in 1950, the Governor, then appointed, was given considerably more power than is typical in the U.S. democratic model. These powers were understandable in the context of Guam's emerging democracy, and the need for stability. However, since 1950 Guam's democracy has continually changed. Since 1969, Guam has been electing its Governor.

Guam's public schools must improve so that our children can indeed be able to meet the challenge of the future. In the last Science Research Associate Achievement Tests, Guam students scored at about the 30th percentile.

Guam has attempted to mitigate the negative results of politics in education by creating an elected board of education. However, due to the Organic Act and the Governor's control over education, the board is hardly even a quasi-advisory body. Overt examples of interference can be clearly seen, although they are strictly legal. One Governor rejected the board's selection for director and appointed his own. The board has since restrained from making an appointment without first receiving the Governor's concurrence. Our attempts to ease the political influence have not been successful. It is clear that as long as accepted checks and balances are not in place in Guam's Department of Education, education will remain politically exploitable.

The 17th and 18th Guam Legislatures unanimously voted in favor of resolutions petitioning Congress for a change to section

29(b). As sponsor of the resolutions I am excited by Congressman Blaz's proposed amendment to change section 29(b).

The students of our school system deserve good education. If two Democratic controlled legislatures, unequivocally supporting a 29(b) amendment can get together with their Republican congressional Representative, then I believe it is clear that partisan politics takes a back seat to the interest of education.

In Guam, we left behind our partisan ideals to strike an objective blow to the archaic nature of 29(b). I trust in your deliberations you will appreciate our unified effort and the immediate need for change which brings us all together.

In closing, let me leave with you a quote from the chairperson of the last Accreditation Team of the Western Association of Schools and Colleges, the last Accreditation Team which evaluated the programs of two of Guam's high schools in 1984:

> The programs which are being developed now which I think are really significant * * * there is some very vigorous leadership being given and some exciting programs underway to solve a lot of your problems, but if politics dictate a sudden change in leadership, a political change in leadership, it seems to me just logical * * * that the new leader would not feel any, would just automatically not follow the programs of his predecessor. I mean if * * * you're a democrat you don't want to continue republican policy; if you're a republican you don't want to continue democrat policy; and I think in education that can be really damaging. I would hate to see some of the programs started, all of a sudden stopped.

This I believe, Mr. Chairman, is the most objective statement I can impart to you today of the need for us to provide our school system with continuity and stability in its governance.

Thank you for your time and consideration on this issue that has such an enormous impact on our people.

Si Yuus Masse!

[The prepared statement of Mr. Quitugua follows:]

TESTIMONY OF
SENATOR FRANKLIN J. A. QUITUGUA,
CHAIRMAN, COMMITTEE ON EDUCATION
EIGHTEENTH GUAM LEGISLATURE
BEFORE THE COMMITTEE ON
ENERGY AND NATURAL RESOURCES

CHAIRMAN McCLURE, AND MEMBERS OF THE COMMITTEE ON ENERGY AND NATURAL RESOURCES. I AM FRANKLIN J. A. QUITUGUA, SENATOR, AND CHAIRMAN OF THE EDUCATION COMMITTEE OF THE SEVENTEENTH AND EIGHTEENTH GUAM LEGISLATURES. I AM ALSO A FORMER DIRECTOR OF THE GUAM DEPARTMENT OF EDUCATION. FIRST OF ALL LET ME THANK YOU FOR YOUR TIME IN HEARING THIS PROPOSED AMENDMENT. I TRUST THAT YOU WILL SERIOUSLY CONSIDER THIS REQUEST AS ITS IMPACT ON GUAM IS SIGNIFICANT; THE NEED TO CHANGE AND PROVIDE FOR GREATER CONTINUITY AND STABILITY IN GUAM'S PUBLIC EDUCATIONAL LEADERSHIP IS GREAT!

"AS SECTION 29(B) NOW READS, AN OVERLY AMBITIOUS MAN MIGHT, IN THE FUTURE, INTERPRET THE WORD 'OPERATE' LITERALLY AND PROCEED TO SUBVERT THE SCHOOLS AND MAKE THEM COMPLETELY RESPONSIVE TO HIS WILL RATHER THAN THE WILL OF THE PEOPLE." THESE ARE THE WORDS OF GUAM'S FIRST CHAMORRO GOVERNOR, GOVERNOR JOSEPH FLORES, AT GUAM'S FIRST CONSTITUTIONAL CONVENTION IN 1969. SO YOU SEE, THE DEMAND FOR CHANGE IS NOT A NEW ONE. IN 1969 GOVERNOR FLORES COULD NOT HAVE POSSIBLY SEEN THE IMPACT THAT 29(B) WOULD HAVE ON GUAM EDUCATION IN 1985, BUT HIS COMMENTS ARE HAUNTINGLY ACCURATE.

WHEN GUAM'S ORGANIC ACT WAS APPROVED BY CONGRESS IN 1950, THE GOVERNOR - THEN APPOINTED - WAS GIVEN CONSIDERABLY MORE POWER THAN IS TYPICAL IN THE U. S. DEMOCRATIC MODEL. THOSE POWERS WERE UNDERSTANDABLE IN THE CONTEXT OF GUAM'S EMERGING DEMOCRACY AND THE NEED FOR STABILITY. HOWEVER, SINCE 1950 GUAM'S DEMOCRACY HAS CONTINUALLY CHANGED. SINCE 1969 GUAM HAS BEEN ELECTING ITS GOVERNOR.

GUAM'S PUBLIC SCHOOLS MUST IMPROVE SO THAT OUR CHILDREN CAN INDEED BE ABLE TO MEET THE CHALLENGE OF THE FUTURE. IN THE LAST SCIENCE RESEARCH ASSOCIATE ACHIEVEMENT TESTS GUAM STUDENTS SCORED AT ABOUT THE 30TH PERCENTILE.

GUAM HAS ATTEMPTED TO MITIGATE THE NEGATIVE RESULTS OF POLITICS IN EDUCATION BY CREATING AN ELECTED BOARD OF EDUCATION. HOWEVER, DUE TO THE ORGANIC ACT AND THE GOVERNOR'S CONTROL OVER EDUCATION, THE BOARD IS HARDLY EVEN A QUASI - ADVISORY BODY. OVERT EXAMPLES OF INTERFERENCE CAN BE CLEARLY SEEN ALTHOUGH THEY ARE STRICTLY "LEGAL." ONE GOVERNOR REJECTED THE BOARD'S SELECTION FOR DIRECTOR AND APPOINTED HIS OWN. THE BOARD HAS SINCE RESTRAINED FROM MAKING AN "APPOINTMENT" WITHOUT FIRST RECEIVING THE GOVERNOR'S CONCURRENCE. OUR ATTEMPTS TO EASE THE POLITICAL INFLUENCE HAVE NOT BEEN SUCCESSFUL. IT IS CLEAR THAT AS LONG AS ACCEPTED CHECKS AND BALANCES ARE NOT IN PLACE IN GUAM'S DEPARTMENT OF EDUCATION, EDUCATION WILL REMAIN POLITICALLY EXPLOITABLE.

THE SEVENTEENTH AND EIGHTEENTH GUAM LEGISLATURES UNANIMOUSLY VOTED IN FAVOR OF RESOLUTIONS PETITIONING CONGRESS FOR A CHANGE TO SECTION 29(B). AS SPONSOR OF THE RESOLUTIONS I AM EXCITED BY CONGRESSMAN BLAZ'S PROPOSED AMENDMENT TO 29(B). THE STUDENTS OF OUR SCHOOL SYSTEM DESERVE GOOD EDUCATION. IF TWO DEMOCRATIC CONTROLLED LEGISLATURES, UNEQUIVOCALLY SUPPORTING A 29(B) AMENDMENT, CAN GET TOGETHER WITH THEIR REPUBLICAN CONGRESSIONAL REPRESENTATIVE, THEN I BELIEVE IT IS CLEAR THAT PARTISAN POLITICS TAKES A BACK SEAT TO THE INTEREST OF EDUCATION. IN GUAM, WE LEFT BEHIND OUR PARTISAN IDEALS TO STRIKE AN OBJECTIVE BLOW TO THE ARCHAIC NATURE OF 29(B). I TRUST IN YOUR DELIBERATIONS YOU WILL APPRECIATE OUR UNIFIED EFFORT. AND THE IMMEDIATE NEED FOR CHANGE WHICH BRINGS US ALL TOGETHER.

IN CLOSING, LET ME LEAVE YOU WITH A QUOTE FROM THE CHAIRPERSON OF THE LAST ACCREDITATION TEAM OF THE WESTERN ASSOCIATION OF SCHOOLS AND COLLEGES THE LAST ACCREDITATION TEAM WHICH EVALUATED THE PROGRAMS OF TWO OF GUAM'S HIGH SCHOOLS IN 1984:

> "THE PROGRAMS WHICH ARE BEING DEVELOPED NOW WHICH I THINK ARE REALLY SIGNIFICANT ... THERE IS SOME VERY VIGOROUS LEADERSHIP BEING GIVEN AND SOME EXCITING PROGRAMS UNDERWAY TO SOLVE A LOT OF YOUR PROBLEMS, BUT IF POLITICS DICTATE A SUDDEN CHANGE IN LEADERSHIP, A POLITICAL CHANGE IN LEADERSHIP, IT SEEMS TO ME JUST LOGICAL ... THAT THE NEW LEADER WOULD NOT FEEL ANY, WOULD JUST AUTOMATICALLY NOT FOLLOW THE PROGRAMS OF HIS PREDECESSOR. I MEAN IF ... YOU'RE A DEMOCRAT YOU DON'T WANT TO CONTINUE REPUBLICAN POLICY; IF YOU'RE A REPUBLICAN YOU DON'T WANT TO CONTINUE DEMOCRAT POLICY; AND I THINK IN EDUCATION THAT CAN BE REALLY DAMAGING. I WOULD HATE TO SEE SOME OF THE PROGRAMS STARTED, ALL OF A SUDDEN STOPPED."

THIS I BELIEVE IS THE MOST OBJECTIVE STATEMENT I CAN IMPART TO YOU TODAY OF THE NEED FOR US TO PROVIDE OUR SCHOOL SYSTEM WITH CONTINUITY AND STABILITY IN ITS GOVERNANCE.

THANK YOU FOR YOUR TIME AND CONSIDERATION ON THIS ISSUE THAT HAS SUCH AN ENORMOUS IMPACT ON OUR PEOPLE.

SI YUUS MAASE!

STABILITY AND CONTINUITY NEEDED IN EDUCATIONAL GOVERNANCE FOR GUAM

The Organic Act of Guam of 1950 established limited self-government for the island of Guam. In its implementation, the powers of the Governor were given special attention and consideration. As Guam embarked on its democratic experience, Washington saw fit to incorporate stability in the incipient system by appointing the Governor. Mirroring the earlier military Government of Guam, the executive branch under the Organic Act was given far-reaching authority not normally associated with the U. S. system of checks and balances. The following provision gave the Governor of Guam authority over public education:

> Section 29(b) "The Governor shall provide an adequate public educational system of Guam, and to that end shall establish, maintain and operate public schools at such places in Guam as may be necessary."

The far-reaching authority of the language of 29(b)- if literally interpreted - allows sweeping changes to the physical location, composition and curriculum of schools and the school system of Guam with each new Governor. Indeed almost every Governor has used the authority of 29(b) to change the executive direction, and subsequently the philosophical direction of Guam's education system. Unfortunately the absence of coherence has had a serious impact on Guam's educational as the philosophical direction of gubernatorial appointees often takes on a political context. Public schools (elementary and secondary) finance accounts for one third (1/3) of GovGuam's annual budget and the possibilities of political exploitation have been too much for most Governors to resist. The impact is clearly seen in low morale among professional employees in the Department of Education, and in the current student achievement. (As measured through a nationally standardized achievement test Guam's students are in the bottom 30th percentile nationwide).

High school accreditation teams visiting Guam have provided some insights into the level of political interference in the elementary and secondary public schools. Exhibit A provides an example of the questions which review teams asked of the Governing Board (from Sanchez H. S., 1985 Review). Because executive political interference is not common in U. S. school districts, it is not surprising to find that accreditation teams do not seek to identify such problems in their visit to a Guam school. Moreover, each review team is composed of 'new' members, and hence any continuity in casual observation of the problem is also lost. What accreditation teams have noted in their school reviews is the absence of delegation of authority to the school level - a clear symptom of centralized authority and control (Exhibit B). The symptoms identified in these most recent accreditation reports were highlighted by comments of the Visiting Accreditation Team Chairperson, Mr. Kenneth Sahl. Mr. Sahl noted:

> "The programs which are being developed now which I think are really significant ... there is some very vigorous leadership being given and some exciting programs underway to solve a lot of your problems, but if politics dictate a sudden change in leadership, a political change in leadership, it seems to me just

> logical ... that the new leader would not feel any, would just automatically not follow the programs of his predecessor. I mean if ... you're a Democrat you don't want to continue Republican policy, if you're a Republican you don't want to continue Democrat policy; and I think in Education that can be really damaging. I would hate to see some of the programs started, all of a sudden stopped."

His observation touches that very heart of 29(b)'s authority - a volatile reality that Guam educators, students and legislators have had to contend with in attempting to secure effective education.

Guam's post-secondary educational institutions provide a clear example of how political interference has harmed education. More keenly interested in academic freedom than elementary and secondary school accreditation teams, review teams visiting UOG have long noted the problem of executive interference. As early as 1963 the Western Association of Schools and Colleges had warned the College of Guam that "the laws relating to the college keep academic affairs too closely related to politics". (Exhibit C.) And in 1965, "when a ... president and his staff must depend upon the Governor for his final approval, whether written or oral, they become potential pawns". Again in 1968, 74, 78 and 81 the problems of political interference - instability, lack of autonomy - were repeated over and again by WASC teams (See Exhibits C, D & E). The 17th Guam Legislature, asserting that post-secondary education was beyond the scope of the Governor's 29(b) powers, forwarded to the Board of Regents the autonomy and power deserving of an educational institution.

Although primary and secondary education review teams are not as concerned with 'academic freedom' and 'autonomy' as are post-secondary review teams, the Territory of Guam has long noted the problem. Short of a Congressional amendment to 29(b), the 14th Guam Legislature created a publicly elected school board in an attempt to mitigate outside interference. Nine years later, the board only operates on a perfunctory level, subject to the whims of the Governor and his executive appointee.

Volumes could be written on political interference and for illustration purposes two will be highlighted - coverage the current and past administrations. In the case of the former Governor, the Board's choice for appointment to Director of Education was rejected by the Governor, His appointee, an incumbent Senator was this week convicted on extortion and mail fraud linked to political contributions. The U. S. Attorney prosecuting the case, noted that the Director's interests seemed to be more politically motivated than educational. Even the former Director - while maintaining her innocence to the charges - admitted that she had solicited "donations" from a friend/contractor to satisfy the responsibility of campaign contributions given her by the incumbent governor (she was sentenced to 10 years imprisonment). In the case of the current Governor, an elementary school was declared structurally unsound, and was condemned by the Governor. In a matter of days after condemnation, the school was occupied by the Governor and his staff and turned into the Governor's Office. To add insult to injury, thousands of dollars were spent on the renovation (only cosmetic) from the Department of Education's maintenance fund (due to the Territory's poor fiscal posture, DOE maintenance is currently underfunded by about $8 million). These are only illustrations of the problem. As long as exceptional powers are constitutionally conferred solely upon Guam's Governor - as long as accepted checks and balances are absent - education will remain politically exploitable.

Guam remains the only U. S. school district without effective representatives who are solely elected for an educational purpose. Guam should not continue to be a case study in "why executive direction in education is unsuccessful", rather Guam should have the same educational rights and direction as is democratically afforded to other U. S. school districts.

The Principal sets the limits for the various departments within the school.

(b) Evaluate the effectiveness of these procedures.

In the absence of better procedures, these procedures are effective.

4. (a) Indicate the expenditures of the school by major categories. (Have a copy of the school budget available for the Visiting Committee at the time of the visitation.)

See 2. (a); school budget is available.

(b) Evaluate the adequacy of the allocations to the various categories.

See 1. (b) above.

E. GOVERNING BOARD POLICIES AND PROCEDURES.

The following are included in a series of standards that have been developed jointly by representatives of the National School Boards Association and the American Association of School Administrators. Please check below the response which, in your opinion, most accurately describes the degree to which these principles are followed by all members of your Governing Board. Responses may, of course, be explained, as necessary. (Independent, Church-Related, and Hawaii schools may wish to adapt, change, or substitute other standards to fit their particular situations. What is desired is an indication of the operational policy under which the Governing Board functions.)

1. The Board distinguishes between its responsibilities as a policy-making body and the superintendent's responsibility as its executive officer.

yes___X___ generally______ no______.

2. The Board, through its function of local control, guarantees:

(a) Freedom for expression of local ideas.

yes___X___ generally______ no______

3. Since the laws assign powers, duties, and responsibilities to the School Board as-a-whole, the Board functions as a unit in all matters, rather than assigning responsibilities to individual members.

yes___X___ generally______ no______

EXHIBIT "A"

4. The Board does not limit itself to business and financial affairs, but also considers educational problems and policies brought to it by the superintendent.

yes____X____ generally__________ no__________

5. The Board has established personnel policies wherein:

(a) The superintendent represents the Board in dealing with the staff.

yes____X____ generally__________ no__________

(b) The superintendent makes all personnel recommendations for the Board's consideration, including employment, assignment, promotion, and dismissal.

yes____X____ generally__________ no__________

6. Board policies provide that problems or complaints from the community or staff members are routed through the proper administrative officers.

yes____X____ generally__________ no__________

F. SUPPLEMENTAL SERVICES.

Describe and evaluate briefly any of the following services rendered your school by agencies outside the school (e.g., by district, county, state, federal, or other agencies) unless it is indicated elsewhere in this self-study and resulting School Report. If covered elsewhere, indicate "covered in Chapter ___." If no services are rendered by outside agencies in any particular area below, indicate by "none."

1. Hiring and placement of personnel.

   Covered in Chapter XIII, XII A)

2. Supervision of staff.

   District Office (Associate Superintendent, Secondary) supervision of administrators is satisfactory.

3. Curriculum development.

   Covered in Chapter V.

CLASSIFIED STAFF

The Committee commends:

1. The cafeteria staff for its clean facilities as well as the excellent service. (School Report p. 78; Observation; Conference)

The Committee recommends that:

* 1. Priority in the selection of personnel be given to school administrators' recommendations. (School Report p. 73)
2. A review be conducted to determine the cause of the excessive absences of the custodial staff. (School Report p. 74)
3. Continued efforts be made to provide in-service opportunities for the classified staff. (School Report pp. 75, 78; Interview)

EXHIBIT "B"

ADMINISTRATIVE STAFF

The Committee commends:

1. The school and the Department of Education for their efforts to standardize attendance and discipline policies among the schools to alleviate inconsistencies for both students and staff. (School Report, p. 60)

2. The administration for its cooperative spirit, openness, friendliness and willingness to work together with the staff. (School Report pp. 61, 64)

The Committee recommends that:

*1. The Department of Education review its policies to the end that local site administration will have more influence in the selection of personnel to be assigned to their schools. (School Report, p. 61)

*2. An effort should be made to review and revise the teacher evaluation forms for possible improvements. (School report, p. 61; Conference)

*3. Opportunities for the 75 percent to 80 percent of the students who do not go on to higher education be reviewed to determine if they are receiving adequate vocational opportunities. (School Report p. 63; Conference; Observation)

MAJOR COMMENDATIONS AND RECOMMENDATIONS

The Committee commends:

1. The Oceanview High School students, faculty, Advisory Council, administration and classified staff for the obvious pride manifested in the daily operation of the school. (School Report, Observation, Conference)

2. The school administration and instructional staff for preparing a candid assessment of their school and accurately identifying many areas in need of improvement. (School Report; Observation; Conference; Documents)

The Committee recommends that:

1. The Department of Education and school staff consider modifying course requirements and curriculum to provide students the opportunity to experience career education and vocational preparation. (School Report; Conference)

*2. The Department of Education investigate alternatives which will establish purchasing procedures responsive to school needs. (School Report, Conference)

3. The Department of Education seek reasons for poor reading scores in grades K-12, and identify and implement broad programs which will result in significant improvement in high school graduates' reading skills. (School Report; Conference; SRA Test Scores)

4. The Department of Education plan for the development and implementation of a formal articulated curriculum (K-12 which would include a continuum of skills in language arts, mathematics, science and social studies. (School Report; Conference; Curriculum Documents)

5. The Department of Education, school administration and instructional staff work in concert to develop an organized sequential program to meet the needs of students with limited academic ability as well as those with strong academic ability and interests. (School Report; Conference; SRA Test Scores; Class Schedules)

6. The Department of Education plan and implement, as soon as practicable, a staff development plan designed to improve classroom instruction and control. (School Report; Conference; Observation)

7. The Textbook Committee of the Department of Education and the instructional staff review the need to adopt textbooks appropriate to the ability levels of students. (SRA Test Scores; Conference; Observation)

Materials of Instruction

The Committee commends:

1. The Department of Education for providing fifteen computers and appropriate software for a computer course offering. (School report, p. 47, conference, observation)

2. The Department of Education for the recent provision of textbooks and supplies for the instructional program. (Conference)

The Committee recommends:

✱ 1. That the administration, staff, and Department of Education work cooperatively to upgrade and increase the references in the library. (School report, p. 48, conference, observation)

✱ 2. That the Department of Education review its procedures for responding more quickly to the staff in the areas of budget status and follow-up on purchase orders. (School report, p. 70, conference)

3. That the administration and science staff vigorously pursue the removal of obsolete and unlabeled chemicals from the science storeroom shelves. (Conference, observation)

4. That the textbook committee of the Department of Education and the instructional staff review the need to adopt textbooks appropriate to the ability level of students. (SRA scores, conference, observation)

5. That the administration and librarian work in concert to combine all library books into one collection and thus create one library to serve the needs of all students at the school site. (Observation, conference)

6. That the Department of Education, the site administration and the librarian investigate possibilities for enlarging the library by removing the wall between the present library and the Eagle's nest. (School report, p. 73, conference, observation)

WESTERN ASSOCIATION OF SCHOOLS AND COLLEGES
Accrediting Commission for Senior Colleges and Universities
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February 22, 1983

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Secretary

Chairman Edward Perez
Board of Regents
University of Guam
Agana, Guam 96910

Dear Chairman Perez:

I am writing on behalf of the Accrediting Commission to express the serious concerns of the Commission that the University of Guam may not be in compliance with Commission standards on Governance, particularly Standard 3.A. (See enclosed Handbook of Accreditation, pages 21-23.)

Guam newspapers have reported that two or three regents have submitted "courtesy resignations" on request of the newly elected Governor and two others have refused to resign, preferring instead to finish their terms. The press has also reported the decision of the Governor to appoint, or possibly have the Regents appoint, the vice chairman of the Governor's transition team as the new president of the University. Reports further indicate that the Vice President for Academic Affairs is to be replaced by the Governor's choice from among the faculty, and that seven or eight faculty have been required to take leave from the University on a temporary basis to accept positions in the government without consultation or following the University's procedures for granting leaves.

The Commission is seriously concerned about these reports and the appearance of undue intervention by an external agency, the Governor's Office, in the management and internal affairs of the University. It was primarily this very issue which prompted the warning issued by the Commission to the University in June 1981. Indeed, if these reports are true, they reflect a return to the very conditions cited specifically by the April 1981 visiting team in its first two recommendations. These two recommendations stated:

1. The University of Guam should seek the cooperation of the Government of Guam to amend the Higher Education Act of 1976 to provide that the terms of appointment for the Regents be no fewer than eight (8) years and that courtesy resignations at the time of gubernatorial elections be discontinued.

EXHIBIT "C"

Further that the act be amended to eliminate the need for an absolute majority of the board voting in favor of an action for it to carry. And finally that the Board of Regents continue to resist external pressures to protect the University from external interference in matters appropriately and necessarily the prerogative and responsibility of the University.

2. The Board of Regents should develop policy guidelines which will encourage and facilitate administrative stability and discourage external and internal interference in the selection and appointment of University officials. The guidelines should require the appropriate delegation of responsibility and authority to the President and in turn to all other levels of administration and to committees of the faculty and University members. These conditions and understandings should clearly be intended to insure that timely actions are taken and that the total governance process of the University works and meets the standards of governance and administration of the Western Association of Schools and Colleges.

The Commission is concerned about the ability of the University to maintain its independence and autonomy in the face of external pressures and to evaluate the president or others in a politically-free atmosphere as required by our accrediting standards. The sericusness of these problems and their persistance throughout the accreditation history of the University are such that it is not possible to await receipt of the University's next scheduled self-study in November 1983. Instead, the Commission requests that the Board of Governors submit a report by March 25, 1983 to the Commission with the following information:

1. Please indicate the current composition of the Board of Regents, whether any changes have occurred in the past year or are projected for the next year, and the reasons for such changes.

2. Please indicate the Board of Regent's actions or plans with respect to changes in the administration of the University and the reasons therefor.

3. Please indicate the steps already taken by the Board to respond to the recommendations of the April 1981 visiting team, chaired by President Garrity, concerning the Board of Regents (see recommendations one and two) and the current status of these efforts.

4. Please provide the Board's own assessment of how it meets the requirements of Standard 3.A (the Governing Board). In so doing, please comment on the Board's relations with the new Governor and whether the Board will be able to maintain its autonomy and independence from external influence and pressure.

Upon receipt of this report the Commission may wish to schedule an interim visit to the University in advance of the fall 1983 regularly scheduled visit to determine if the University is currently in compliance with Standard 3.A and has responded effectively to the concerns reported by the April 1981 visiting team dealing with this standard.

The governance issues identified in the 1981 team report and which are the subject of this letter have been matters of concern to the Commission since at least as early as 1963. A review of visiting team findings and recommendations on these issues may be helpful in giving background to this request for information.

In 1963 the visiting team addressed directly the need for changes in the structure of the then College of Guam and in the laws relating to the College to provide for an independent and autonomous Board of Regents. The team wrote:

> It is the opinion of the Committee that a change to the creation of the Board of Regents with authority to make policy for the College, to appoint the president and staff, and to administer as far as possible the College funds, will make for fewer complications and for a stronger college. In the Committee's opinion the present laws relating to the College keep academic affairs too closely related to current politics in the legislation and government.

In 1965 the visiting team reported that the College of Guam then had its own Board of Regents, but noted that "the Regents do not in fact have full control of the College." Although sensitive to the historical and legal background for this situation, the team was clear in seeing the potential for damage to the institution and the need for change to a more autonomous structure.

> A change of administration could conceivably leave the College at the mercy of tight controls imprudently or selfishly interpreted, an eventuality which could seriously damage the institution. The Committee recognizes the legal and administrative

> difficulties involved in changing this firmly established pattern of control, and does not wish to imply that an immediate or revolutionary change must be effected. It does suggest, however, that appropriate studies be made and steps taken which will within a reasonable time result in more political and financial autonomy for the College and its Board of Regents.

The extent of external control by the Governor also raised questions concerning academic freedom in the operation of the College and ability of the Board of Regents to protect the institution from outside pressures.

> The whole area of academic freedom is precious to college educators and must be protected by the Board of Regents and the President. Likewise the Board is responsible for protecting the President from undue pressures by outside forces in order to permit him to guarantee this freedom to his staff. When a college president and his staff must depend upon the governor for his final approval, whether it be written or oral, they become potential political pawns.

The 1968 visiting team noted some progress in the area of institutional autonomy, noting, among other things, proposed legislation (subsequently passed) to increase the size of the Board of Regents from five to seven. Nonetheless, the visiting team recommended further movement to assure institutional autonomy.

> Continued efforts should be made to achieve more autonomy for the Regents and the College for which the Regents are the policy board. With the proposed increase in numbers to seven, and the lengthening of terms to five years, the Board should be in a sound position to assume more responsibility. By retaining existing appointive power over the Regents, the Governor and legislature will maintain proper ultimate control. The Regents themselves can then assume, as is customary in other similar institutions, the responsibility for appointing the president and the staff members of the College.

In 1974, the visiting team found itself faced with "substantial and far reaching changes in organization, administration and program that were initiated just one week before (the arrival of the team) by the newly appointed president of the University." As a result, the team was unable to comment upon the governance structure of the University.

In preparation for an interim team visit in 1976, however, the University identified as a major problem:

> Lack of control over University affairs by the University. It has become increasingly apparent that the administration and Board of Regents lack the power to implement necessary policy and procedural directions consistent with practices of American institutions of higher learning.

The visiting team agreed with this frank appraisal and addressed the question of institutional integrity, repeating the recommendations of the 1968 accreditation team that greater administrative autonomy for the Regents and College administration be achieved. The 1976 team stated "this recommendation is repeated today with a greater sense of urgency." The team also pointed out that the membership of the Board of Regents was down from the statutory five members to three, and that this lack of full membership seemed to be preventing the Regents from acting on a regular and timely basis. The team report ended in an unusually strong note pointing out that the extension of accreditation is vital to the University. The team referred to official policies adopted by several accrediting associations throughout the United States on external budget control and institutional integrity. The report concluded:

> If accreditation is to be continued for the University of Guam before the next full scale accreditation visit by the Western Association of Schools and Colleges, it must be shown that specific positive and significant steps have been taken by the Government of Guam to achieve the following:
>
> 1. The autonomy necessary for the University to manage its own fiscal affairs based on a clearly authorized budget ....
>
> 2. Autonomy and the governance of the University by the Board of Regents, the administration and the appropriate authorized faculty representatives.
>
> Since the University has made repeated attempts in the past to achieve these conditions, it is evident that a central action must be taken at the highest levels of government in Guam.

Perhaps in response to this strong recommendation in December 1976, we are aware that the University of Guam was granted autonomy by Public Law 13-194.

which places full policy making powers in the Board of Regents and limits formal external intervention. According to newspaper reports at the time, this new law was signed by then Governor Bardallo, who has just recently been re-elected as the new Governor of Guam.

In 1978 the territory of Guam was considering a draft of a constitution that ultimately was rejected. The visiting team report of that year focused heavily on issues related to the proposed constitution and did not comment on the University's autonomy.

It is against this background of repeated and persistent concerns for the autonomy of the University that this current letter must be viewed. Accreditation is a process designed to assure the public and the higher education community that, among other things, institutions have a sufficient degree of autonomy to assure protection from outside pressures and influences. Accreditation is also a process designed to assist institutions in their own efforts of institutional advancement and improvement.

Commission staff stand ready to assist the Board in any way possible in responding to this request for a report. We look forward to hearing from you.

Sincerely,

Kay J. Andersen

Kay J. Andersen
Executive Director

KJA:jhp

cc: Rosa Carter, President
David Cole, Chair, Accrediting Commission for Senior Colleges & Universities
Robert Swenson, Director, Accrediting Commission for Community & Junior Colleges

BOARD OF REGENTS
University of Guam
UOG STATION • MANGILAO, GUAM 96913

RECEIVED
APR 06 1983

March 4, 1983

Dr. Kay J. Andersen
Executive Director
Western Association of Schools & Colleges
Box 9990, Mills College
Oakland, Ca. 94613

Dear Dr. Andersen:

This replies to your letter of February 22, 1983, specifically with respect to the information you requested on Page 2.

1. The Board of Regents presently consist of seven (7) members as follows:

MEMBERS	EXPIRATION DATES
Edward G. Perez, Chairman	March 6, 1983
Leonila Herrero, Vice-Chairman	March 6, 1983
Earl Conway, Treasurer	March 6, 1983
Gloria Mortera, Alumni Representative	March 6, 1983
Anthony Leon Guerrero	August 18, 1986
Jesus Quinata	July 2, 1986
June S. Perez, Student	May 4, 1983

Mr. Leon Guerrero and I have submitted "courtesy" resignations following the gubernatorial election in November, 1982. However, the new governor has not taken any formal action on the resignations. Mr. Leon Guerrero is presently off-island for an indefinite period and may be unable to continue as a regent. By March 6, 1983, I would have served out my term.

The governor has appointed Mr. John Phillips and Mr. Eloy Benavente to fill the existing vacancies which occurred last year in the nine-member Board. Neither has been confirmed by the Guam Legislature at this date. As indicated above, the terms of four regents will expire on March 6, 1983. It is unlikely that they will be reappointed. If Mr. Leon Guerrero does not return to Guam, there will be five vancancies this month.

EXHIBIT "D"

2. As of this date, the present Board contemplates no changes in the administration of the University. It is a matter of public record, however, that the new governor has chosen Dr. Jose Q. Cruz to replace Dr. Rosa Roberto Carter whose contract expires in June, 1984. Under Public Law 13-194, the Higher Education Act of 1976, the authority to select and appoint the University president, is vested in the Board of Regents. Concurrence of the governor and the Legislature is not required. Whether or not the incoming regents will acquiesce to the governor's wishes is a matter of conjecture. However, if changes are to occur, the present Board unanimously and strongly contends that the presently approved University Personnel Rules and Regulations dated August 19, 1982, and Standard 3A of the Handbook of Accreditation, WASC, be strictly followed.

3. The Board last year proposed draft legislations to respond to Recommendations 1 and 2 of the April, 1981, visiting team. No action was taken by the Legislature. Copies of the proposed laws are attached.

The Board has, however, very serious misgivings about eliminating the absolute majority vote. Given a quorum of five members present at a meeting, three members (out of nine) could affect an action, including broad policy changes, that might not be in the best interests of the University. It has not, therefore, proposed any revision of the law in this regard and prefers that the present provision be continued.

4. The Higher Education Act of 1976 (Guam Public Law.13-194) is designed to meet the requirements of Standard 3A. For example, selection and retention of the president, and the adoption of the UOG Personnel Rules and Regulations for administration officers and faculty were completed since the last WASC visit.

Even though the Higher Education Act of 1976 is intended to shield the Board and University from external influence and pressure, the incident cited in item 2 above has threatened the autonomy and independence of the Governing Body.

We appreciate the concerns of the Western Association of Schools and Colleges and hope that the above are sufficiently responsive.

Should you need any further information, please do not hesitate to contact us.

Sincerely yours,

Edward G. Perez
Chairman

EGP:cc

Attachment

cc: President, UOG

MILLS COLLEGE, OAKLAND, CALIFORNIA 94613
(415) 632-5000

TEAM ROSTER and TITLE PAGE

UNIVERSITY OF GUAM, Agana
Name of Institution

April 25-28, 1978
Date of Visit

Rosa Carter, President
Chief Executive

Russel G. Peckens, Professor of Educ. Psych
Accreditation Liaison Officer

Type of Visit: Reaffirmation of Accreditation

Chairman:
Warren B. Martin
Vice President
Danforth Foundation
222 South Central Ave.
St. Louis, MO 63105
(314) 862-6200
(History, Higher Education)
signed:

Members:
Dan W. Andersen
Executive Vice President
Brigham Young, Hawaii Campus
Laie, HI 96762
(808) 293-9211
(Educational Administration)
signed:

Ralph C. Bohn
Dean of Continuing Education
San Jose State University
San Jose, CA 95192
(408) 277-2185
signed: Ralph C. Bohn

R. M. D. Childs
Director, Business and Finance
Sonoma State College
Rohnert Park, CA 94923
(707) 664-2341
signed:

Vice Chairman:
Dean McHenry
Chancellor Emeritus, U.C., Santa Cruz
Mailing address: 6821 Bonny Doon Road
Santa Cruz, CA 95060
(408) 426-4665 [illegible]-2118
(Political Science)
signed: McHenry

Ruth Crymes
Professor, English as a Second Language
University of Hawaii, Manoa
Honolulu, HI 96822
(808) 948-8610
signed: Ruth Crymes

Noreen Dowling
Assistant Dean, Extended Learning
University of California, Davis
Davis, CA 95616
(916) 752-3224
(Chemistry)
signed: Noreen Dowling

Ralph C. Hook, Jr.
Professor of Business Administration
University of Hawaii, Manoa
Honolulu, HI 96822
(808) 261-3658
signed: Ralph C. Hook Jr.

PLEASE TYPE TEAM RECOMMENDATION ON A SEPARATE SHEET OF PAPER. WHEN CRITICAL ACTIONS ARE RECOMMENDED, OR IN SPECIAL CASES, PLEASE APPEND AN EXPLANATION FOR THE COMMISSION. THE RECOMMENDATION WILL NOT BE SENT TO THE INSTITUTION.

EXHIBIT "E"

A. THE MAJOR RECOMMENDATIONS

The following recommendations address the major concerns related to the continued growth and development of the University of Guam. Recommendations on particular programs or administrative units of the University are integrated into later sections of this report.

1. *Constitutional autonomy of the University should be sought. Although the measure of statutory autonomy granted in the Higher Education Act of 1976 was a substantial step forward, there is no provision for autonomy in the draft Constitution of Guam, which is now before the President and Congress of the United States.*

2. *The Board of Regents should be placed on a more stable basis. The draft Constituion, in substituting "elective" for "appointive" board members, adds to instability in the Board. We would prefer an appointive board, with terms of eight years or more. However selected, the Board ought to confine its attention to major issues such as fiscal support and broad policies. Only self-restraint will keep it from becoming involved in administrative details.*

3. *The present collective bargaining Agreement between the Regents and the Federation (AF of T) should be revised drastically. Among items scheduled for removal would be: (a) details that belong in faculty handbooks and administrative manuals; (b) requirements of disclosure of reports and recommendations to faculty applicants for promotion and tenure; (c) restrictions that unduly hamper the President and other officers; (d) provision for excessive numbers of committees and committee members.*

4. *The apparent conflict between the act creating the Guam Community College (November 1977) and the draft Constitution of Guam (completed December 1977) must be reconciled. The former establishes a new Community College Board and assigns part of the existing University program to this new Board. The latter says there shall be two educational boards; a Board of Education and a Board of Regents.*

5. *The University of Guam ought to direct more attention to its larger constituency: The Western Pacific, especially Micronesia. Students from the Trust Territory of the Pacific Islands constitute a large element of the student body, yet they receive minimal consideration and sometimes appear to be resented. The University needs to review its courses and curricula, its student services, and its student housing to ascertain if there*

are not legitimate ways of providing improvedservices to students from neighboring islands.

6. *The University needs an academic master plan to set its educational goals for the future. This should include not only realistic estimates of student and faculty numbers, but fields of study, research thrusts, and service activities. We suggest a five or ten year plan based on the best available demographic and economic data, taking into account possible variations and contingencies. The plan should be developed by a partnership team of administration and faculty, and should be submitted to the Board of Regents for approval. When approved, the academic master plan will help determine the nature of the University fiscal and physical master plans.*

7. *The University needs a fiscal master plan. Financial support of the University must be strengthened. The contribution of the Government of Guam appears to be declining rather than increasing. New sources of income such as student fees, federal endowment, agricultural grants--seem to lessen rather than augment territorial appropriations. Until Guam is willing to make a greater tax effort and bring their financial support to a level closer to that provided by American states, it is unlikely to have a University above a minimal level.*

8. *The University needs a physical master plan to provide adequate facilities. Again, we suggest a five or ten year plan. It should include such items as land acquisition, new buildings, renovation of existing buildings, deferred maintenance, and equipment. The meager capital items appropriated in recent years have tended to melt away amid cash flow crises. The Library is not only inadequate, but dangerous. There is no physical education facility. Many, if not most, of campus departments are overcrowded. If the University's capital needs cannot be met from general fund sources, then a bond issue should be considered. Should all else fail, the U.S. Congress might be asked to authorize use of the University's $3,000,000 endowment fund for capital outlay purposes.*

B. BRIEF DESCRIPTION OF THE UNIVERSITY OF GUAM

The University of Guam is a public institution located in Mangialo, Guam, offering instruction at undergraduate and graduate levels. It is now a land grant institution. It offers Bachelors degrees in 25 programs, and Masters degrees in 14 programs including the M.A., M.S., M.Ed., M.B.A., and M.P.A. Enrollment was 2,183 full-time equivalent students in Spring 1973. Institutional staff numbers 217, academic and non-academic. The physical plant is 280,000 square feetgross area.

What is now the University started as the Territorial College of Guam in June 1952. It began as a two-year teacher training institution. In the decade of the 1960's cost; the bookstore should consider selling the books at publisher's list price.

9. Institutional Governance and Administration

It will be obvious to those who have read earlier sections of this report, particularly the major recommendations, that the visiting team is worried about the status of the University in relation to the government of Guam, and concerned over the internal management of the University.

Statutory autonomy, granted in 1976, has greatly improved financial dealings with the territorial government. Some of the benefits, however, have been withheld because of cash flow problems. Capital projects, funded by appropriations adopted by the Legislature and signed by the Governor, simply do not materialize because there is inadequate money in the treasury to release the funds. Also, apprehension is expressed by some University staff members that cash flow problems may delay salary payments.

Constitutional autonomy, which logically should have followed statutory, was not granted to the University in the draft Constitution of December 1977, now pending approval by the U.S. President and Congress.

The Board of Regents, which has been appointive--and for terms which are of too short duration--will be elected by districts under the new Constitution. We do not know enough about Guam politics to make an informed guess about the quality of Board that will result from election. Judging from the experience of the few American states that elect such boards, however, we think it is a hazardous process. Except in Michigan, where the political parties virtually turn selection of candidates for higher education boards over to institutional alumni, those chosen under the elective plan too often are budding politicians trying to establish name-recognition rather than thoughtful persons concerned with building better universities. The constitutional convention unfortunately continued the four-year term; a term of eight or more years could have contributed to the stability of the University of Guam.

The team was unable to probe deeply into the inter-relationships of the Board and the President. We formed the opinion, on the basis of such evidence as was available, that the Board at times reaches far into minor matters that should be left to the administrative officers. The statutory requirement of monthly meetings is unfortunate; far larger institutions find that 6 or 8 meetings per year suffice.

Collective bargaining has produced an "Agreement" between the Regents and University of Guam Federation Local 2239 of the American Federation of Teachers (AFL-CIO) that places the two in an adversary relationship. We think the result will be debilitating to the University. The Agreement is a virtual strait-jacket that freezes procedures and practices, guaranteeing too many committees and two afternoons a week for them to meet. The Faculty Senate, by-passed by the Agreement, is now extinct. Even the President, who should have scope and some room for constructive work, is proscribed by union contract from exercising initiative in internal matters.

This unfortunate situation, allegedly brought on by long experience with arbitrary rule and a powerless and ineffective Senate, may get worse before it gets better. Some moderation and restraint on the part of the Federation can help turn the corner. Getting administrative details out of the next Agreement might be a good first step. Certainly the part of the contract that requires releasing their files to applicants for promotion or tenure should be removed; full and frank appraisals will not be written unless they are to be held confidential.

WESTERN ASSOCIATION OF SCHOOLS AND COLLEGES

Accrediting Commission for Senior Colleges and Universities

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TEAM ROSTER AND TITLE PAGE

UNIVERSITY OF GUAM
Name of Institution phone: 011-671-734-2921

April 20-23, 1981
Date of Visit

Rosa Carter, President
Chief Executive

Kenneth Carriveau, Assistant Professor of Education
Accreditation Liaison Officer

Type of Visit: Interim

Chairman:

Donald L. Garrity
President
Central Washington University
Ellensburg, WA 98976
(509) 963-2111
(Administration, Sociology)

Members:

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A. LaMoyne Garside
Professor of Art
Brigham Young University-Hawaii
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(Fine Arts - Art)

Marjorie Downing Wagner
Vice Chancellor Emerita
California State University & Colleges
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(Humanitites-English, Administration)

WESTERN ASSOCIATION OF SCHOOLS AND COLLEGES
TEAM INTERIM VISITATION REPORT
UNIVERSITY OF GUAM
April 20-23, 1981

Introduction

The team visited the University of Guam at the scheduled period for the Interim Visit. The team wishes to express its very great sense of appreciation to President Carter, Dr. Carriveau, and all of the members of the university community for their gracious hospitality. Further, we wish to thank these people for their cooperation and facilitation of our work.

The previous regular visit was in 1978. Several major recommendations were made by the team at that time and confirmed by the Commission. This visit revealed that although many of the recommendations received appropriate attention and action, several major recommendations have not been met, or have not fully and effectively been followed.

The major areas of concern relate to several areas which have been the subject of comment and recommendation over several visits. This team finds reason to be concerned about inappropriate pressure from outside the university, the status and role of the Regents as the basic policy body of the university, the critical absence of academic, physical and fiscal plans, maintenance of the physical plant and the variety and breadth of programs offered. Administrative stability and organization, effectiveness of the governance process and the question of commitment to off-campus programing have become concerns.

The university cannot continue to fail to effectively address these continuing problems and must address the new ones. Fiscal constraints will exacerbate some, morale will further decline and in time the viability of the university and the quality of its programs.

The university has the capacity to meet these problems. The understanding, commitment and cooperation of all members of the university will be required. The challenge is worthy of the best efforts of everyone.

Recommendations

1. The University of Guam should seek the cooperation of the Government of Guam to amend the Higher Education Act of 1976 to provide that the terms of appointment for the Regents be no fewer than eight (8) years and that courtesy resignations at the time of gubernatorial elections be discontinued. Further that the act be amended to eliminate the need for an absolute majority of the board voting in favor of an action for it to carry. And finally that the Board of Regents continue to resist external pressures to protect the university from external interference in matters appropriately and necessarily the prerogative and responsibility of the university.

2. The Board of Regents should develop policy guidelines which will encourage and facilitate administrative stability and discourage external and internal interference in the selection and appointment of university officials. The guidelines should require the appropriate delegation of responsibility and authority to the President and in turn to all other levels of administration and to committees of the faculty and university members. These conditions and understandings should clearly be intended to insure that timely actions are taken and that the total governance process of the university works and meets the standards of governance and administration of the Western Association of Schools and Colleges.

3. The administration should move to clarify role definitions of the administrative organization and clarify areas of responsibility and authority. These actions should insure that areas deal with appropriate subjects and that necessary authority is delegated to accomplish the responsibilities.

4. The admission standards of the university for graduate study should be reconsidered and raised to a level commensurate with insuring quality graduate work.

5. Graduate and undergraduate programs must be reviewed with the goal of reducing and integrating the offerings in view of the limited resources and enrollments in the university.

6. The academic master plan should be immediately developed with full participation of faculty and academic officers of the university. Less reliance should be placed on consultants and the resources of the faculty and academic administration should be used. This plan is vital to establish the priorities and agenda of work for the university. Fiscal and physical problems necessitate that work be begun soon after the academic planning process is fully underway to develop the companion fiscal and physical plans.

7. Periodic and continuous peer and administrative evaluation of all faculty should be implemented.

8. If the present graduate programs are continued, the library resources must be improved to adequately serve them.

9. A plan to address the very pressing problem of maintenance of the physical facilities must be developed which insures that the problems will be handled in a priority order and that continuous and effective maintenance is a standard mode of operation.

10. Review and reconsider either the commitment to off-campus programs for Guam and Micronesia or the proposal to reorganize the planning and delivery system for off-campus programs.

WESTERN ASSOCIATION OF SCHOOLS AND COLLEGES
Accrediting Commission for Senior Colleges and Universities
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TEAM ROSTER AND TITLE PAGE

UNIVERSITY OF GUAM
Name of Institution phone: 011-671-734-4234

November 15-18, 1983
Date of Visit

Jose Q. Cruz, President
Chief Executive

Forrest G. Rogers, Director, Admissions and Registration
Accreditation Liaison Officer

Type of Visit: Reaffirmation of Accreditation

Chairman:

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Director of Institutes
American Council on Education
Mailing address:
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Santa Rosa, CA 95404
707-523-4774

Vice Chair:

Gerald Scherba
Academic Vice President
California State College, San Bernardin
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714-887-7511
(Biological Sciences)

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(Higher Education)

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Dean of Student Services and
Special Programs
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University of Hawaii, Manoa
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Honolulu, HI 96822
808-948-7288
(Philosophy)

MAJOR RECOMMENDATIONS

1. Steps must be taken to ensure the University's independence from the executive and legislative branches of government. Such steps must include: 1) establishing longer and staggered terms for the members of the Board of Regents; 2) clearly delegating to the Board of Regents the authority to select and appoint the President of the University, and when appropriate the authority to remove the President for cause, or to replace the President when his or her term is up; and 3) to have full authority over the control of the funds of the University, under the oversight of the government of Guam.

2. The University must develop financial statements that will allow independent auditors to express sound and verifiable opinions on the financial condition of the institution, and these audits must be annual.

3. The Regents and the administration must develop criteria and procedures for selecting administrators down to the level of deans, with their roles and responsibilities defined and with evidence that no political influence has played a part in their selection and appointment.

4. The University should make every effort to increase the resources of its strongest academic and research programs and consider the termination of those that cannot receive sufficient resources to assure their quality. Evidence of improved quality must become demonstrable in the faculty, library and the laboratories.

5. The administration must lead a university-wide task force to develop an Academic Master Plan which incorporates the University's stated mission and which can be used for directing the University's academic course for the next five years. It must also be used to develop fiscal and physical plans that are demonstrably related to its parts. Priorities must be expressed and adhered to.

6. The University should pursue with the governments of its island neighbors more effective ways of funding programs at the University that directly benefit the students who come to the University from those neighboring islands.

7. The University should consider at the highest level recommendations on the matter of student retention and take immediate action to improve it.

8. The University should resolve the issue of tenure for faculty members appointed under "local hire" practices, and institute regular evaluations for all faculty.

9. The University should consider the appointment of institutional research personnel to assist in planning and program development.

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PRESIDENT JOSE Q CRUZ
UNIVERSITY OF GUAM
UOG STATION
MANGILAO96913

DEAR PRESIDENT CRUZ AT ITS MEETING ON FEBRUARY 15-17 1984, THE COMMISSION ACTED TO PLACE THE UNIVERSITY OF GUAM ON SHOW CAUSE STATUS UNTIL JUNE 30 1985, BASED ON THE VISITING TEAM REPORT AND RECOMMENDATIONS. A VISIT WILL BE CONDUCTED IN EARLY APRIL 1985, WITH THE REPORT DUE BY FEBRUARY 15 1985
PLEASE REFER TO THE HANDBOOK SECTIONS ON SHOW CAUSE AND COMMISSION REVIEW
THE COMMISSION WAS PLEASED TO LEARN OF THE POTENTIAL LEGISLATIVE ACTION TO RESPOND TO CONCERNS ABOUT INSTITUTIONAL AUTONOMY. NEVERTHELESS APPROPRIATE LEGISLATION HAS NOT BEEN ENACTED OR IMPLEMENTED, AND THE MANY OTHER CONCERNS OF THE TEAM REPORT ABOUT ACADEMIC QUALITY HAVE NOT BEEN ADDRESSED. ALL OF THESE MATTERS WILL NEED TO BE CONFRONTED BY THE UNIVERSITY DURING THE SHOW CAUSE PERIOD. THE COMMISSION WAS GRATEFUL TO YOU, BOARD CHAIR TORRES, AND DR CRAIG FOR ATTENDING THE READER AND COMMISSION MEETINGS SINCERELY
KAY J ANDERSEN

CERTIFIED LETTER FOLLOWS

COL MANGILAO96913 15-17 1984, 30 1985, 1985, 15 1985

TOD 11:20AM '21/FEB/NL

6275 UOGBUSOF GM

Senator WEICKER. Thank you very much, Senator.

Senator Santos.

STATEMENT OF HON. FRANK R. SANTOS, SENATOR AND CHAIRMAN, COMMITTEE ON FEDERAL, FOREIGN, AND LEGAL AFFAIRS, GUAM LEGISLATURE

Mr. SANTOS. Thank you very much, Mr. Chairman. Good morning.

At the outset, Mr. Chairman, I would like to personally acknowledge appreciation for your efforts in saving the $36 million for the Guam Power Authority, and also to acknowledge appreciation to Mr. Richard Montoya who assisted in the passage of the $36 million and the creation of the public utility commission. What you did, Mr. Chairman, with saving the $36 million is doing well in the operations of the Guam Power Authority.

In addition, Mr. Chairman, I would like to also register our support in the proposed 1985 omnibus bill for the territories. I don't have a chance to go in depth with that piece of legislation, but in concept we are supporting that.

Mr. Chairman, thank you very much for inviting us to testify on bill number S. 1441. We bring you a warm Hafa Adai from the people of Guam.

I appreciate your kind invitation for me to appear and present testimony on your bill—I mean, on Senator McClure's bill S. 1441, a bill to transfer excess Federal property to the government of Guam. I understand that a similar bill, H.R. 2884, has been introduced in the House by the distinguished Delegate from Guam, Congressman Ben Blaz.

I fully support the concept and intent of S. 1441 and Delegate Blaz's H.R. 2884, and I respectfully urge your committee to act on this legislation with all deliberate speed.

Mr. Chairman, land is a very critical commodity on a small island such as Guam. While the supply of useable land is critically short on Guam, the local population is growing at the so-called Malthusian rate. The last time I heard, God had stopped creating any more islands. On Guam, the population growth was about 13 percent, or an increase from 105,000 in 1980 to 119,800 in 1984.

Guam's size, Mr. Chairman, is 214 square miles. It is 30 miles long and 8 miles wide. Approximately one-third of the island is under private ownership. One-third is owned by the local government and the Federal Government, mostly the Department of Defense, owns the other one-third.

In the mid-1970's, at the request of then Delegate Tony Won Pat, a study of the military land use on Guam was initiated and completed in 1977. This plan shows that the military has under its control 44,000 acres and plans to acquire 900 additional acres. This same plan proposes to release the release of 4,932 acres, but held in reserve 4,800 for exchange.

In the early 1940's, Federal landownership on Guam was less than 10 percent, but by the end of World War II, the Department of Defense had nearly one-half of the island under its control. It was not until the 1960's when Federal ownership of land increased to the present level.

Mr. Chairman, following World War II, the pattern of postwar land takings was disconcerting, to put it mildly. The techniques used by the military and their agents to acquire privately owned lands ranged from friendly persuasion to unconscionable actions. It was because of this misconduct on the part of our military that the Congress in 1977 enacted Public Law 95-134.

This law allowed the District Court of Guam to review land claims for just compensation. Let me quickly add, however, that up until this very moment not a single penny has been paid to the former landowners on Guam under the land claims statute enacted by Congress. And any local feelings toward military land use is one of frustration and disappointment. This problem is potentially explosive.

Mr. Wayne Arny III, Deputy Assistant Secretary of the Navy, visited Guam last October 1985 to reevaluate the Department of Defense's land use requirements on Guam. While on Guam, Mr. Arny met with island leaders, the chamber of commerce, and the landowners. I am sure the Assistant Secretary came away from Guam sufficiently impressed with the depth of local sentiments and frustrations over military land issues.

I respectfully suggest, Mr. Chairman, that your committee send a strong signal to the Department of Defense that acquisition of additional land should be coordinated with the Governor of Guam and must be fully justified. Placing a small military installation on a large acreage because it is the customary thing to do is a luxury we can no longer afford nor justify.

Mr. Chairman, few on Guam have serious objections to our Defense establishment using lands essential to the national security mission. However, the continued holdings of unused lands under the pretext of future military contingencies is unrealistic and potentially troublesome. Even at the height of our military involvement in Vietnam and the police action in Korea in the early 1950's, none of the so-called contingency plans have ever been invoked that will necessitate the reactivation of the lands held in reserve. Thus, for more than three decades these lands have laid idle while the clamor for more space and elbow room for economic development become more strident.

We recognize the present danger that threatens the lines of communication and logistics to our Japanese ally. But as a practical matter, the use of Guam as an alternative to our naval and air force bases in the Philippines is not a realistic option. Just last October, Mr. Richard Armitage, Assistant Secretary of Defense, told a U.S. Senate committee that Guam and Tinian as alternatives in case of a pullout from the Philippines are regarded as poor options. Mr. Chairman, this was reported in the Washington Post of October 10, 1985.

Then, too, the General Services Administration's policy of selling surplus or excess military land on Guam to the highest bidder exacerbates the problem. For the most part, successful bidders are nonresident aliens who have large financial resources to outbid the local residents. Hence, the absentee landownership on Guam is increasing in numbers, and the former landowners who were persuaded by the Navy to relinquish title of their lands without fair and just compensations under the guise of patriotism now feel betrayed. Moreover, selling excess land from the indigenous population to help reduce the Federal deficit will be viewed with considerable misgivings.

Mr. Chairman, I now refer specifically to S. 1441. The bill as presently written would allow the Governor of Guam to submit a comprehensive plan to the Secretary of the Interior for his review for the lands in the following categories:

One, no longer needed for Federal purposes,

Two, not presently needed, but for which a future need exists.

First, Mr. Chairman, it is not clear from the language of S. 1441 if the lands identified in paragraphs 1 and 2 of subsection (d) of the bill are to be transferred to the Government of Guam in fee simple, and what will be the considerations, if any. I have serious reservations in granting authority to the Secretary of the Interior to survey Federal lands on Guam which are mostly under the control of the Department of Defense.

As a practical matter, I prefer to see the responsibility for surveying Federal lands on Guam placed in the hands of the Secretary of Defense. Furthermore, giving the Secretary of the Interior continuing oversight jurisdiction over lands deeded to the local government runs counter to the notions of local self-rule. And our experience with self-government has shown that that department is overly restrictive in allowing local self-rule to develop and for the island to be self-sufficient.

On the matter of consideration, I propose that excess military lands be conveyed to the local government free of cost or at the price originally paid by the Navy. This rationale for this proposal is based on the district court judge's decision that landowners who are not compensated for their land taken by the military following World War II should be paid the value of that land at the time of the taking.

No. 2, when the Organic Act of Guam was enacted in 1950, it included a provision to return to local civilian government all the lands not reserved by the President of the United States for military use.

Mr. Chairman, what I am proposing here is consistent with the intent of Congress when it passed the Organic Act for Guam in 1950.

I also call your attention to the transfer of certain U.S. Navy land to the Government of Guam in the Apra Harbor for port development. Under section 818 of the Military Construction Act of 1981, Public Law 96-418, the Secretary of the Navy conveyed to the Government of Guam 927 acres of Navy land for port related development.

This provision, popularly known on Guam as the "Brooks Amendment," required that all income from the sale or lease of the conveyed property be returned to the U.S. Treasurer. This section was subsequently liberalized by section 504 of the 1984 Omnibus Territories Act, Public Law 98-454. However, pursuant to the new amendment, the Secretary of the Navy is required to conduct a study on port development costs to determine what percentage of the proceeds from the sale or lease of the property can be allocated as development costs. This study has not been completed.

In this connection, I have recently written to the chairman of the House Government Operations Committee, Congressman Jack Brooks, to advise him that "the required development cost study provided for in the 1984 Omnibus Territories Act has not been accomplished. Thus, no development of the port property has been initiated." Guam urgently needs to develop and improve its port facilities at Apra Harbor, but until the study is completed or the so-called Brooks Amendment is lifted, development of the port property is neither feasible nor economical.

Finally, Mr. Chairman, I would like to propose that the S. 1441 or other similar bill be amended to include in the proposed land use and disposal plan a provision that would give preference in the land purchase—in the purchase of land conveyed under this legislation to the original landowners. I further suggest that a strong land alienation language be written in to prevent the transfer of any part of this land by deed to non-U.S. citizens.

Thank you, Mr. Chairman, and again, si yuus masse, for your kind attention.

[The prepared statement of Mr. Santos follows:]

STATEMENT OF
SENATOR FRANK R. SANTOS,
CHAIRMAN OF COMMITTEE ON
FEDERAL, FOREIGN AND LEGAL AFFAIRS
18TH GUAM LEGISLATURE
ON S-1441

December 3, 1985

Thank you Mr. Chairman. We bring you a warm Hafa Adai from the people of Guam. I appreciate your kind invitation for me to appear and present testimony on your S-1441, a bill to transfer excess, Federal property to the Government of Guam. I understand that a similar bill, H. R. 2884 has been introduced in the House by the distinguished Delegate from Guam, Congressman Ben Blaz.

I fully support the concept and intent of S-1441, and Delegate Blaz's H. R. 2884, and I respectfully urge your Committee to act on this legislation with all deliberate speed.

Mr. Chairman, land is a very critical commodity on a small island such as Guam. While the supply of usuable land is critically short on Guam, the local population is growing at the so-called Malthusian rate. The last time I heard, God had stopped creating any more islands. On Guam, the population growth was about 13 per cent, or an increase from 105,000 in 1980 to 119,800 in 1984.

Guam's size is 214 square miles - it's 30 miles long and 8 miles wide. Approximately one-third of the island is under private ownership; one-third owned by the local government and the Federal Government; mostly the Department of Defense, owns the other one-third.

In the mid-1970's, at the request of then Delegate Tony Won Pat, a study of the military land use on Guam was initiated, and completed in 1977. This plan shows that the military has under it's control 44,000 acres and plans to acquire 900 additional acreage. This same plan proposes the release of 4,932 acres, but held in reserve 4,800 for exchange.

In the early 1940's, Federal land ownership on Guam was less than 10 per cent, but by the end of World War II, the Department of Defense had nearly one-half of the island under it's control. It was not until the 1960's when Federal ownership of land atrophied to the present level.

Mr. Chairman, following World War II, the pattern of post-war land takings was disconcerting, to put it mildly. The techniques used by the military and their agents to acquire privately owned lands ranged from friendly persuasion to unconcionable actions. It was because of this misconduct on the part of our military that the Congress in 1977 enacted Public Law 95-134. This law allowed the District Court of Guam to review land claims for just compensation. Let me quickly add, however, that up until this very moment, not a single penny has been paid to the former land owners on Guam, under the Land Claims statute enacted by Congress. And, local feelings toward military land use is one of frustration and disappointment. This problem is potentially explosive.

Mr. Wayne Arny, III, Deputy Assistant Secretary of the Navy, visited Guam last October of 1985, to re-evaluate the Department of Defense's land use requirements on Guam. While on Guam he met with island leaders, the Chamber of Commerce and the land owners. I am sure the Assistant Secretary came away from Guam sufficiently impressed with the depth of local sentiments and frustration over military land issues.

I respectfully suggest, Mr. Chairman, that your Committee send a strong signal to our Defense Department, that acquisition of additional land should be coordinated with the Governor of Guam and must be fully justified. Placing a small military installation on a large acreage because it is the customary thing to do, is a luxury we can no longer afford nor justify.

Mr. Chairman, few on Guam have serious objections to our Defense establishment using lands essential to the National Security mission. However, the continued holding of unused lands under the pretext of future military contingencies is unrealistic and potentially troublesome. Even at the height of our military involvement in Viet Nam and the Police Action in Korea in the early 1950's, none of the so-called contingency plans have ever been invoked that would necessitate the reactivation of the lands held in reserve. Thus, for more than three decades these lands have laid idle while the clamor for more space and elbow room for economic development became more strident.

We recognize the present danger which threatens the lines of communication and logistics (LOC) to our Japanese ally. But as a practical matter, the use of Guam as an alternative to our Naval and Air Force bases in the Philippines, is not a realistic option. Just last October Mr. Richard Armitage, Assistant Secretary of Defense told a United States Senate Committee that Guam and Tinian as alternatives, in case of a pull-out from the Philippines are regarded as poor options. This was reported by the Washington Post on October 10, 1985.

Then, too, the General Services Administration's (GSA) policy of selling surplus or excess military land on Guam to the highest bidder exacerbates the problem. For the most part, successful bidders are non-resident aliens, who have large financial resources to out-bid the local residents. Hence, absentee land ownership on Guam is increasing in number, and the former landowners who were persuaded by the Navy to relinquish title to their lands without fair and just compensation under the guise of "patriotism", now feel betrayed. Moreover, selling excess land taken from the indigenous population, to help reduce the Federal deficit, will be viewed with considerable misgivings.

I now refer specifically to S-1441. The bill as presently written would allow the Governor of Guam to submit a comprehensive plan to the Secretary of the Interior for his review, for the lands in the following categories:

"(1) No longer needed for Federal purposes,
(2) Not presently needed, but for which a future need exists."

First, Mr. Chairman, it is not clear from the language of

S-1441 if the lands identified in paragraphs (1) and (2), of sub-section (d) of the bill, are to be transferred to the Government of Guam in fee simple, and what will be the consideration, if any. I also have serious reservations in granting authority to the Secretary of the Interior to survey Federal lands on Guam, which are mostly under the control of the Defense Department.

As a practical matter, I prefer to see the responsibility for surveying Federal lands on Guam placed in the hands of the Secretary of Defense. Furthermore, giving the Secretary of the Interior continuing oversight jurisdiction over lands deeded to the local government, runs counter to the notion of local self-rule. And Our experience in self-government has shown that that department is overly restrictive in allowing local self-rule to develop and for the island to be self-reliant.

On the matter of consideration, I propose that excess military lands be conveyed to the local government, free of cost or at the price originally paid by the Navy. The rationale for this proposal is based on: (1) A District Court Judge's decision that land owners who were not compensated for their land taken by the military following World War II, should be paid the value of that land at the time of taking; (2) When the Organic Act of

Guam was enacted in 1950, it included a provision to return to the local civilian government, all lands not reserved by the President of the United States for military use.

Mr. Chairman, what I am proposing here is consistent with the intent of Congress when it passed the Organic Act for Guam in 1950.

I also call your attention to the transfer of certain U. S. Navy land to the Government of Guam in the Apra Harbor for port development. Under Section 818 of the Military Construction Act, of 1981, Public Law 96-418, the Secretary of the Navy conveyed to the Government of Guam 927 acres of Navy land for port related development. This provision, popularly known on Guam as the "Brooks Amendment", required that all income from the sale or lease of the conveyed property be returned to the United States Treasurer. This section was subsequently liberalized by Section 504 of the 1984 Omnibus Territories Act, Public Law 98-454. However, pursuant to the new amendment, the Secretary of the Navy is required to conduct a study on port development costs to determine what percentage of the proceeds from the sale or lease of the property can be allocated as development costs. The study has not been completed.

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Finally, Mr. Chairman, I would like to propose that your S-1441 or other similar bill be amended to include in the proposed land use and disposal plan, a provision that would give preference in the purchase of land conveyed under this legislation to the original land owners. I further suggest that a strong land alienation language be written in to prevent the transfer of any part of this land by deed to non-United States citizens.

Thank you.

Senator WEICKER. Thank you very much, Senator Santos.

Governor, and Senators, I thank you very much for your testimony. If there are further questions, they will be submitted for response to the record.

As I indicated to you, time constraints mean that we want to move forward. I hope that all of you will be in the room as the Chair intends to put questions that relate very much to the subjects you've raised to Secretary Montoya when he testifies. If there are any discrepancies or any matters that you feel need an additional clarification, don't hesitate to contact the committee through the staff, and we'll try to do that during the course of the hearings.

Mr. SANTOS. Thank you.

Senator WEICKER. Thank you very much.

Our third panel will consist of the Honorable Pedro Tenorio, the Lieutenant Governor of the Commonwealth of the Northern Mariana Islands; and Mr. Gregorio Sablan, special representative of the Governor of the Commonwealth of the Northern Mariana Islands.

Governor, you go right ahead.

STATEMENT OF HON. PEDRO A. TENORIO, LIEUTENANT GOVERNOR, COMMONWEALTH OF THE NOTHERN MARIANA ISLANDS

Mr. TENORIO. Thank you, Mr. Chairman.

First let me extend Governor Tenorio's deepest appreciation for giving us the opportunity to appear before your committee. He also sends his best wishes to all the committee members, and also extends personally his invitation for your attendance in our inauguration in January 13. I also want to personally extend my deepest appreciation to your staff, Mr. Frank Cushing, Jim Beirne, and Mr. Al Stayman for being so sensitive and understanding on the problems of the Commonwealth's government, the Northern Marianas, which is America's newest member. We just recently got admitted into the so-called Union, 7 years ago. I'm here today to testify on Senate Joint Resolution 192 having to do with continuing financial assistance.

Mr. Chairman, I do have a prepared statement that is nine pages long, and I would like to read it into the record. I also have, as part of my statement, a very comprehensive record on financial statistics and other programs that we wanted to also submit as part of this testimony today.

Senator WEICKER. All your statements and statistics will be entered into the record in their entirety.

Mr. TENORIO. Thank you, Mr. Chairman.

On July 10, 1985, special representatives of the President of the United States and the Governor of the Northern Mariana Islands concluded negotiations initiated in September 1984 pursuant to U.S. Public Law 94-241, the Covenant to Establish the Commonwealth of the Northern Mariana Islands in Political Union with the United States of America.

The negotiations were directed toward reaching a joint recommendation to the Congress on future U.S. financial support for the Commonwealth. The special representatives concluded such a joint recommendation executed in the form of a specific agreement for U.S. assistance over the next 7 years, which has been submitted to the Congress for its consideration as required by section 902 of the covenant.

The covenant establishes a political relationship designed to integrate the Northern Mariana Islands into the American political family. Covenant funding was not intended as either a payment for new U.S. territory or as a beneficient gift to the people of the Commonwealth. Rather, it was intended to provide the means by which the people of the nine islands could achieve a progressively higher standard of living as part of the American economic community, and to provide the means to develop the economic resources needed to meet the financial responsibilities of local self-government.

The level and form of assistance during the first 7 years of the political relationship provided by covenant section 702 was determined by mutual agreement as to the level of U.S. funding required to permit progress in achieving an American living standard, and in developing a system of local government administration consistent with the norms established by other U.S. jurisdictions. Both of these goals were taken into extensive account during the transition period in which the covenant was developed and adopted by the Northern Marianas and the United States.

Any realistic assessment of Commonwealth government applications of covenant financial assistance over the past 7 years should take into account the base level of political development and administrative capacity in the Northern Marianas in 1978 and the general development goals and objectives for the Commonwealth as originally planned.

Specifically, such an assessment should evaluate the use of financial resources in terms of progress made in establishing the political and administrative institutions of self-government, in developing a viable economy capable of supporting these institutions, and in terms of a progressing standard of living. A detailed assessment of the initial 7 years of U.S. financial support is attached to this statement as a memorandum report of the Northern Mariana Islands in support of the joint recommendation to Congress.

Our report demonstrates that the Commonwealth has generally met planned targets for the generation of internal resources, maintained planned priorities for capital improvements and provided support for most of the planned social and economic development programs. As a result, significant progress has been made toward attaining covenant goals and objectives. Living standards, while still well below American standards, have increased substantially and structural changes in the Commonwealth economy have met many of the preconditions for economic development to support American living standards. Most important, institutional development required for an efficient government capable of meeting its financial responsibilities has progressed significantly.

Of course we have experienced problems, particularly in the area of financial management. In the Northern Marianas financial management is integrally associated with the development process. Our recommendations for the next 7 years recognize this.

The agreement between the special representatives of the Governor of the Commonwealth of the Northern Mariana Islands and the special representative of the President of the United States, dated July 10, 1985, proposes the terms and amounts of U.S. financial assistance for the Congress to provide to the Northern Mariana Islands. Assistance for government operations totals $100,500,000; assistance for capital development totals $126 million; and special programs assistance totals $1,500,000.

Of particular interest in the agreement are the schedules for operations and capital development assistance during the 7-year period. Government operations assistance is scheduled to decline from $17.8 million in fiscal year 1986 to $10.3 million in fiscal year 1992, at a rate of approximately $1 million per year.

In order to accelerate the pace of capital development and maximize the purchasing power of capital improvement funds, capital development assistance is scheduled to increase rapidly from $8.5 million in fiscal year 1986 to $25.2 million in fiscal year 1989, then to decline to $17.4 million in fiscal year 1992.

The agreement reflects success in approaching the Covenant's goal of developing economic resources sufficient to meet the financial responsibilities of local self-government by decreasing reliance on the United States for operations support by approximately $1 million. The schedule of government operations assistance reflects the increasing maturity and efficiency of the Commonwealth government and its increasing capabilities to generate internal revenues to support its operations.

The schedules for capital development assistance recognize that the Commonwealth has entered a crucial stage of development. Rapid private sector development, based on tourism, is creating new infrastructure needs faster than old needs can be met. Further, while the income and tax benefits of rapid growth will be realized in the future, the resources to provide the infrastructure necessary to facilitate growth are required immediately. If the Commonwealth is ever to develop an economy capable of truly supporting self-government, it must have further assistance in meeting the infrastructure requirements for growth.

But capital development needs are not just confined to requirements for economic development. There is still much to be done in meeting the needs for social development. While capital requirements for health and public safety already have been largely met, requirements for new schools and other public facilities remain. Also, despite major expenditures for power, water and sewage, many people still lack access to these utilities, or suffer from inconsistent and low quality service because of inadequate investment in the utilities.

The 7-year financial proposal before the committee not only provides funding, it also provides solutions, which in conjunction with recent governmental changes in the Northern Marianas, will address the major specific financial management problems of the first 7-year period.

One area of particular concern is the government deficit. The shortfall is the product of several factors, chief of which is the inability of the Commonwealth government to meet all expenses for operations from available resources. This includes approximately $5 million which the government was obligated to contribute to unforeseen expenses of the government employees retirement fund.

The inability to meet this obligation was less the product of a deliberate unwillingness to stay within the limits of available resources than the result of political institutions which could not accept the financial implications of the government retirement program. Political development has not been far enough advanced to resist the pressure of precedent established by United States administration in prior years.

The agreement of the special representatives specifically addresses this issue by providing half a million dollars in special technical assistance to develop and implement a plan to fully fund the government's retirement system on an actuarially sound basis within the life of this agreement.

The second major component of the operations deficit arises from unforeseen operating expenses for power generation and medical referral. The proposal before the committee is designed to eliminate the operating shortfall for utility services by ensuring the continuation of the newly established utilities corporation, an independent public agency required to set user rates and fees to fully fund utility service costs without subsidy within 3 fiscal years.

The corporation is also authorized to explore the feasibility of transferring utility operations to the private sector. In addition, the high costs arising from off-island medical referral are expected to be substantially reduced when the new Commonwealth health center begins operation next year. The new agreement provides for a one-time grant of $1 million for operational startup costs of the new hospital.

It is worthy of note that the Commonwealth government's operating deficit has been financed by deferring payments to the retirement fund, and reprogramming certain economic development and capital improvement funds to meet operations costs. Thus, the deficit has not been financed by incurring long-term debt; indeed, recent amendments to the NMI Constitution mandate annual balanced budgets and require that any subsequent operating deficits be retired within the following fiscal year.

In conjunction with local initiatives undertaken by the Commonwealth government, the recommendation before this committee promotes economic development within our islands and lessens dependence on Federal financial assistance for government operations. Within the agreement itself, we have pledged to earmark not less than 80 percent of capital development financial assistance for the construction of basic infrastructure designed to lay the groundwork for private economic development. At home, we have amended our constitution to establish specific dollar limits on government operations budgets and curtail the growth of public sector employment.

In order to ensure that capital development funds provided for in the joint recommendation are efficiently applied, we have also recently enacted legislation to ensure that expenditures for infrastructure are limited to physical improvements of a relatively permanent nature; such projects as roads, schools, sewers, ports, and harbors. This legislation is specifically referenced in the new agreement.

Finally, in anticipation of enactment of the joint recommendation, we have established the Commonwealth Development Authority. This agency is designed to depoliticize the allocation of development funds, and to efficiently plan and deploy the Commonwealth's resources for capital improvement. In addition, the authority will control the incurrence of external debt by the Commonwealth and assure that any debt which might be incurred will be for development purposes.

At this point, Mr. Chairman, I would like to comment briefly on the process by which the joint recommendation you have before you was reached. As you know, section 902 of the covenant provides for the appointment by the President and the Commonwealth Governor of special representatives to meet at least every 10 years and consider such issues affecting our mutual relationship as either government may designate.

And notably, section 902 provides that special representatives will in any event be appointed to consider and make recommendations to Congress regarding future multiyear financial assistance to the Northern Marianas at least 1 year prior to the expiration of every period of U.S. financial assistance.

As the committee is aware, the close of fiscal year 1985 marked the end of the initial multiyear period of guaranteed U.S. assistance under the covenant. Accordingly, in 1984, President Reagan and Governor Tenorio each formally designated special representatives pursuant to 902.

On our side, the Governor appointed a bipartisan panel whose four members included representatives from all our major islands, the administration, the legislature, and both political parties. This group, chaired by myself as Lieutenant Governor, achieved a broad-based concensus among the various Commonwealth constituencies.

Among other matters, our special representatives explored the question of the scope of the issues to be designated for discussion with the President's special representative. Relations between our enfant Commonwealth and the United States are sometimes complicated by the existence of difficult policy issues, solutions to which implicate interests beyond our two governments alone.

In view of the fact that expiration of the first period of multiyear U.S. financial assistance was imminent and the expectation that discussion of policy issues collateral to the question of future financial assistance would likely have resulted in prolonged negotiations without any assurance of effective resolution, both sides decided to limit these discussions to the question of multiyear financial assistance as contemplated by section 902.

May I note here that this decision was neither taken lightly nor without evoking a measure of dissatisfaction from some political quarters within the Commonwealth; a few expressed the view that the scope of discussions should be expanded to include such complicated issues as trade benefits, immigration control, and marine sovereignty.

Of course we are aware, Mr. Chairman, that many of these issues affecting development in the Commonwealth are not capable of solution by renewed financial assistance alone. And although such issues must be confronted and resolved, given the circumstances I have mentioned above, our representatives determined that confining discussions to multiyear financial assistance was a reasonable and efficient means of proceeding.

This determination was made somewhat easier by our concurrent decision to request the President to appoint a special representative for a subsequent round of discussions under section 902 to deal with nonfinancial issues, and to pursue solutions to those problems in other forums, including the Congress itself.

We do not believe that these issues can be effectively addressed, however, until our pending multiyear period of covenant funding, and the resultant 7-year development plan are secure. That is one reason we urge expeditious adoption of our joint recommendation by the Congress.

At the moment we are without the operations and planning security of a specific multiyear financial support commitment. While we have agreed with the President's special representative to consider many of the parts of our joint recommendation operational pending congressional action nonetheless special programs assistance funds proposed in the agreement are needed to implement related financial management reforms.

The schedule of annual payments in the plan before you is intended to minimize inflationary impact on long-term construction projects by authorizing early dollar commitments to those projects. This advantage of timing is another reason we urge your prompt approval of the joint recommendation.

Significant constitutional, legislative, and administrative changes have been made in conjunction with the anticipated renewal of the 7-year financial support cycle. We wish to capture this momentum and direct the energy and commitment it represents into effective and efficient operations and development programs. This specific 7-year financial support commitment is needed now to catch the rising wave of economic and social development in the Commonwealth.

Mr. Chairman, that concludes my statement, and I thank you again for the opportunity.

[The prepared statement of Lieutenant Governor Tenorio follows:]

STATEMENT OF LT. GOVERNOR PEDRO A. TENORIO
CHIEF SPECIAL REPRESENTATIVE OF THE GOVERNOR OF THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

BEFORE

COMMITTEE ON ENERGY AND NATURAL RESOURCES

UNITED STATES SENATE

HEARINGS ON SENATE JOINT RESOLUTION 192

DECEMBER 3, 1985

MR. CHAIRMAN AND HONORABLE MEMBERS OF THE COMMITTEE:

ON JULY 10, 1985, SPECIAL REPRESENTATIVES OF THE PRESIDENT OF THE UNITED STATES AND THE GOVERNOR OF THE NORTHERN MARIANA ISLANDS CONCLUDED NEGOTIATIONS INITIATED IN SEPTEMBER 1984 PURSUANT TO U.S. PUBLIC LAW 94-241, THE COVENANT TO ESTABLISH A COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS IN POLITICAL UNION WITH THE UNITED STATES OF AMERICA. THE NEGOTIATIONS WERE DIRECTED TOWARD REACHING A JOINT RECOMMENDATION TO THE CONGRESS ON FUTURE U.S. FINANCIAL SUPPORT FOR THE COMMONWEALTH. THE SPECIAL REPRESENTATIVES CONCLUDED SUCH A JOINT RECOMMENDATION, EXECUTED IN THE FORM OF A SPECIFIC AGREEMENT FOR U.S. ASSISTANCE OVER THE NEXT SEVEN YEARS, WHICH HAS BEEN SUBMITTED TO THE CONGRESS FOR ITS CONSIDERATION, AS REQUIRED BY SECTION 902 OF THE COVENANT.

THE COVENANT ESTABLISHES A POLITICAL RELATIONSHIP DESIGNED TO INTEGRATE THE NORTHERN MARIANA ISLANDS INTO THE AMERICAN POLITICAL FAMILY. COVENANT FUNDING WAS NOT INTENDED AS EITHER A PAYMENT FOR NEW U.S. TERRITORY OR AS A BENEFICENT GIFT TO THE PEOPLE OF THE COMMONWEALTH. RATHER, IT WAS INTENDED TO PROVIDE THE MEANS BY WHICH THE PEOPLE OF THE NINE ISLANDS COULD ACHIEVE A PROGRESSIVELY HIGHER STANDARD OF LIVING AS PART OF THE AMERICAN ECONOMIC COMMUNITY, AND TO PROVIDE THE MEANS TO DEVELOP THE ECONOMIC RESOURCES NEEDED TO MEET THE FINANCIAL RESPONSIBILITIES OF LOCAL SELF-GOVERNMENT.

THE LEVEL AND FORM OF ASSISTANCE DURING THE FIRST SEVEN YEARS OF THE POLITICAL RELATIONSHIP PROVIDED BY COVENANT SECTION 702 WAS DETERMINED BY MUTUAL AGREEMENT AS TO THE LEVEL OF U.S. FUNDING REQUIRED TO PERMIT

PROGRESS IN ACHIEVING AN AMERICAN LIVING STANDARD, AND IN DEVELOPING A SYSTEM OF LOCAL GOVERNMENT ADMINISTRATION CONSISTENT WITH THE NORMS ESTABLISHED BY OTHER U.S. JURISDICTIONS. BOTH OF THESE GOALS WERE TAKEN INTO EXTENSIVE ACCOUNT DURING THE TRANSITION PERIOD IN WHICH THE COVENANT WAS DEVELOPED AND ADOPTED BY THE NORTHERN MARIANAS AND THE UNITED STATES.

ANY REALISTIC ASSESSMENT OF COMMONWEALTH GOVERNMENT APPLICATIONS OF COVENANT FINANCIAL ASSISTANCE OVER THE PAST SEVEN YEARS SHOULD TAKE INTO ACCOUNT THE BASE LEVEL OF POLITICAL DEVELOPMENT AND ADMINISTRATIVE CAPACITY IN THE NORTHERN MARIANAS IN 1978, AND THE GENERAL DEVELOPMENT GOALS AND OBJECTIVES FOR THE COMMONWEALTH AS ORIGINALLY PLANNED. SPECIFICALLY, SUCH AN ASSESSMENT SHOULD EVALUATE THE USE OF FINANCIAL RESOURCES IN TERMS OF PROGRESS MADE IN ESTABLISHING THE POLITICAL AND ADMINISTRATIVE INSTITUTIONS OF SELF-GOVERNMENT, IN DEVELOPING A VIABLE ECONOMY CAPABLE OF SUPPORTING THESE INSTITUTIONS, AND IN TERMS OF A PROGRESSING STANDARD OF LIVING. A DETAILED ASSESSMENT OF THE INITIAL SEVEN YEARS OF U.S. FINANCIAL SUPPORT IS ATTACHED TO THIS STATEMENT AS A MEMORANDUM REPORT OF THE NORTHERN MARIANA ISLANDS, IN SUPPORT OF THE JOINT RECOMMENDATION TO CONGRESS.

OUR REPORT DEMONSTRATES THAT THE COMMONWEALTH HAS GENERALLY MET PLANNED TARGETS FOR THE GENERATION OF INTERNAL RESOURCES, MAINTAINED PLANNED PRIORITIES FOR CAPITAL IMPROVEMENTS AND PROVIDED SUPPORT FOR MOST OF THE PLANNED SOCIAL AND ECONOMIC DEVELOPMENT PROGRAMS. AS A RESULT, SIGNIFICANT PROGRESS HAS BEEN MADE TOWARD ATTAINING COVENANT GOALS AND OBJECTIVES. LIVING STANDARDS, WHILE STILL WELL BELOW AMERICAN STANDARDS, HAVE INCREASED SUBSTANTIALLY, AND STRUCTURAL

CHANGES IN THE COMMONWEALTH ECONOMY HAVE MET MANY OF THE PRE-CONDITIONS FOR ECONOMIC DEVELOPMENT TO SUPPORT AMERICAN LIVING STANDARDS. MOST IMPORTANT, INSTITUTIONAL DEVELOPMENT REQUIRED FOR AN EFFICIENT GOVERNMENT, CAPABLE OF MEETING ITS FINANCIAL RESPONSIBILITIES, HAS PROGRESSED SIGNIFICANTLY.

OF COURSE WE HAVE EXPERIENCED PROBLEMS, PARTICULARLY IN THE AREA OF FINANCIAL MANAGEMENT. IN THE NORTHERN MARIANAS FINANCIAL MANAGEMENT IS INTEGRALLY ASSOCIATED WITH THE DEVELOPMENT PROCESS. OUR RECOMMENDATIONS FOR THE NEXT SEVEN YEARS RECOGNIZE THIS.

THE AGREEMENT BETWEEN SPECIAL REPRESENTATIVES OF THE GOVERNOR OF THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS AND THE SPECIAL REPRESENTATIVE OF THE PRESIDENT OF THE UNITED STATES, DATED JULY 10, 1985, PROPOSES THE TERMS AND AMOUNTS OF U.S. FINANCIAL ASSISTANCE FOR THE CONGRESS TO PROVIDE TO THE NORTHERN MARIANA ISLANDS. ASSISTANCE FOR GOVERNMENT OPERATIONS TOTALS $100,500,000; ASSISTANCE FOR CAPITAL DEVELOPMENT, TOTALS $126,000,000; AND SPECIAL PROGRAMS ASSISTANCE, TOTALS $1,500,000.

OF PARTICULAR INTEREST IN THE AGREEMENT ARE THE SCHEDULES FOR OPERATIONS AND CAPITAL DEVELOPMENT ASSISTANCE DURING THE SEVEN-YEAR PERIOD. GOVERNMENT OPERATIONS ASSISTANCE IS SCHEDULED TO DECLINE, FROM $17,800,000 IN FY 1986 TO $10,300,000 IN FY 1992, AT A RATE OF APPROXIMATELY $1,000,000 PER YEAR. IN ORDER TO ACCELERATE THE PACE OF CAPITAL DEVELOPMENT AND MAXIMIZE THE PURCHASING POWER OF CAPITAL IMPROVEMENT FUNDS, CAPITAL DEVELOPMENT ASSISTANCE IS SCHEDULED TO INCREASE RAPIDLY, FROM $8,500,000 IN FY 1986 TO $25,200,000 IN FY 1989, THEN TO DECLINE TO $17,400,000 IN FY 1992.

THE AGREEMENT REFLECTS SUCCESS IN APPROACHING THE COVENANT'S GOAL OF DEVELOPING ECONOMIC RESOURCES SUFFICIENT TO MEET THE FINANCIAL RESPONSIBILITIES OF LOCAL SELF-GOVERNMENT BY DECREASING RELIANCE ON THE UNITED STATES FOR OPERATIONS SUPPORT BY APPROXIMATELY $1,000,000 PER YEAR. THE SCHEDULE OF GOVERNMENT OPERATIONS ASSISTANCE REFLECTS THE INCREASING MATURITY AND EFFICIENCY OF THE COMMONWEALTH GOVERNMENT AND ITS INCREASING CAPABILITIES TO GENERATE INTERNAL REVENUES TO SUPPORT ITS OPERATIONS.

THE SCHEDULES FOR CAPITAL DEVELOPMENT ASSISTANCE RECOGNIZE THAT THE COMMONWEALTH HAS ENTERED A CRUCIAL STAGE OF DEVELOPMENT. RAPID PRIVATE SECTOR DEVELOPMENT, BASED ON TOURISM, IS CREATING NEW INFRASTRUCTURE NEEDS FASTER THAN OLD NEEDS CAN BE MET. FURTHER, WHILE THE INCOME AND TAX BENEFITS OF RAPID GROWTH WILL BE REALIZED IN THE FUTURE, THE RESOURCES TO PROVIDE THE INFRASTRUCTURE NECESSARY TO FACILITATE GROWTH ARE REQUIRED IMMEDIATELY. IF THE COMMONWEALTH IS EVER TO DEVELOP AN ECONOMY CAPABLE OF TRULY SUPPORTING SELF-GOVERNMENT, IT MUST HAVE FURTHER ASSISTANCE IN MEETING THE INFRASTRUCTURE REQUIREMENTS FOR GROWTH.

BUT CAPITAL DEVELOPMENT NEEDS ARE NOT JUST CONFINED TO REQUIREMENTS FOR ECONOMIC DEVELOPMENT. THERE IS STILL MUCH TO BE DONE IN MEETING THE NEEDS FOR SOCIAL DEVELOPMENT. WHILE CAPITAL REQUIREMENTS FOR HEALTH AND PUBLIC SAFETY ALREADY HAVE BEEN LARGELY MET, REQUIREMENTS FOR NEW SCHOOLS AND OTHER PUBLIC FACILITIES REMAIN. ALSO, DESPITE MAJOR EXPENDITURES FOR POWER, WATER AND SEWAGE, MANY PEOPLE STILL LACK ACCESS TO THESE UTILITIES, OR SUFFER FROM INCONSISTENT AND LOW QUALITY SERVICE BECAUSE OF INADEQUATE INVESTMENT IN THE UTILITIES.

THE SEVEN YEAR FINANCING PROPOSAL BEFORE THE COMMITTEE NOT ONLY PROVIDES FUNDING, IT ALSO PROVIDES SOLUTIONS, WHICH IN CONJUNCTION WITH RECENT GOVERNMENTAL CHANGES IN THE NORTHERN MARIANAS, WILL ADDRESS THE MAJOR SPECIFIC FINANCIAL MANAGEMENT PROBLEMS OF THE FIRST SEVEN YEAR PERIOD.

ONE AREA OF PARTICULAR CONCERN IS THE GOVERNMENT DEFICIT. THE SHORTFALL IS THE PRODUCT OF SEVERAL FACTORS, CHIEF OF WHICH IS THE INABILITY OF THE COMMONWEALTH GOVERNMENT TO MEET ALL EXPENSES FOR OPERATIONS FROM AVAILABLE RESOURCES. THIS INCLUDES APPROXIMATELY $5 MILLION WHICH THE GOVERNMENT WAS OBLIGATED TO CONTRIBUTE TO UNFORSEEN EXPENSES OF THE GOVERNMENT EMPLOYEES RETIREMENT FUND. THE INABILITY TO MEET THIS OBLIGATION WAS LESS THE PRODUCT OF A DELIBERATE UNWILLINGNESS TO STAY WITHIN THE LIMITS OF AVAILABLE RESOURCES THAN THE RESULT OF POLITICAL INSTITUTIONS WHICH COULD NOT ACCEPT THE FINANCIAL IMPLICATIONS OF THE GOVERNMENT RETIREMENT PROGRAM. POLITICAL DEVELOPMENT HAS NOT BEEN FAR ENOUGH ADVANCED TO RESIST THE PRESSURE OF PRECEDENT ESTABLISHED BY UNITED STATES ADMINISTRATION UNDER THE TRUST TERRITORY RETIREMENT PROGRAM.

THE AGREEMENT OF THE SPECIAL REPRESENTATIVES SPECIFICALLY ADDRESSES THIS ISSUE BY PROVIDING $.5 MILLION IN SPECIAL TECHNICAL ASSISTANCE TO DEVELOP AND IMPLEMENT A PLAN TO FULLY FUND THE GOVERNMENT'S RETIREMENT SYSTEM ON AN ACTUARIALLY SOUND BASIS WITHIN THE LIFE OF THIS AGREEMENT.

THE SECOND MAJOR COMPONENT OF THE OPERATIONS DEFICIT ARISES FROM UNFORSEEN OPERATING EXPENSES FOR POWER GENERATION AND MEDICAL REFERRAL. THE PROPOSAL BEFORE THE COMMITTEE IS DESIGNED TO ELIMINATE

THE OPERATING SHORTFALL FOR UTILITY SERVICES BY ENSURING THE CONTINUATION OF THE NEWLY ESTABLISHED UTILITIES CORPORATION, AN INDEPENDENT PUBLIC AGENCY REQUIRED TO SET USER RATES AND FEES TO FULLY FUND UTILITY SERVICE COSTS WITHOUT SUBSIDY WITHIN THREE FISCAL YEARS. THE CORPORATION IS ALSO AUTHORIZED TO EXPLORE THE FEASIBILITY OF TRANSFERRING UTILITY OPERATIONS TO THE PRIVATE SECTOR. IN ADDITION, THE HIGH COSTS ARISING FROM OFF-ISLAND MEDICAL REFERRAL ARE EXPECTED TO BE SUBSTANTIALLY REDUCED WHEN THE NEW COMMONWEALTH HEALTH CENTER BEGINS OPERATION NEXT YEAR. THE NEW AGREEMENT PROVIDES FOR A ONE TIME GRANT OF $1 MILLION FOR OPERATIONAL START-UP COSTS OF THE NEW HOSPITAL.

IT IS WORTHY OF NOTE THAT THE COMMONWEALTH GOVERNMENT'S OPERATING DEFICIT HAS BEEN FINANCED BY DEFERRING PAYMENTS TO THE RETIREMENT FUND, AND REPROGRAMMING CERTAIN ECONOMIC DEVELOPMENT AND CAPITAL IMPROVEMENT FUNDS TO MEET OPERATIONS COSTS. THUS, THE DEFICIT HAS NOT BEEN FINANCED BY INCURRING LONG TERM DEBT; INDEED, RECENT AMENDMENTS TO THE NMI CONSTITUTION MANDATE ANNUAL BALANCED BUDGETS AND REQUIRE THAT ANY SUBSEQUENT OPERATING DEFICITS BE RETIRED WITHIN THE FOLLOWING FISCAL YEAR.

IN CONJUNCTION WITH LOCAL INITIATIVES UNDERTAKEN BY THE COMMONWEALTH GOVERNMENT, THE RECOMMENDATION BEFORE THIS COMMITTEE PROMOTES ECONOMIC DEVELOPMENT WITHIN OUR ISLANDS AND LESSENS DEPENDENCE ON FEDERAL FINANCIAL ASSISTANCE FOR GOVERNMENT OPERATIONS. WITHIN THE AGREEMENT ITSELF, WE HAVE PLEDGED TO EARMARK NOT LESS THAN 80% OF CAPITAL DVELOPMENT FINANCIAL ASSISTANCE FOR THE CONSTRUCTION OF BASIC INFRASTRUCTURE DESIGNED TO LAY THE GROUNDWORK FOR PRIVATE ECONOMIC

DEVELOPMENT. AT HOME, WE HAVE AMENDED OUR CONSTITUTION TO ESTABLISH SPECIFIC DOLLAR LIMITS ON GOVERNMENT OPERATIONS BUDGETS AND CURTAIL THE GROWTH OF PUBLIC SECTOR EMPLOYMENT.

IN ORDER TO INSURE THAT CAPITAL DEVELOPMENT FUNDS PROVIDED FOR IN THE JOINT RECOMMENDATION ARE EFFICIENTLY APPLIED, WE HAVE ALSO RECENTLY ENACTED LEGISLATION TO INSURE THAT EXPENDITURES FOR INFRASTRUCTURE ARE LIMITED TO PHYSICAL IMPROVEMENTS OF A RELATIVELY PERMANENT NATURE; SUCH PROJECTS AS ROADS, SCHOOLS, SEWERS, PORTS AND HARBORS. THIS LEGISLATION IS SPECIFICALLY REFERENCED IN THE NEW AGREEMENT.

FINALLY, IN ANTICIPATION OF ENACTMENT OF THE JOINT RECOMMENDATION, WE HAVE ESTABLISHED THE COMMONWEALTH DEVELOPMENT AUTHORITY. THIS AGENCY IS DESIGNED TO DEPOLITICIZE THE ALLOCATION OF DEVELOPMENT FUNDS, AND TO EFFICIENTLY PLAN AND DEPLOY THE COMMONWEALTH'S RESOURCES FOR CAPITAL IMPROVEMENT. IN ADDITION, THE AUTHORITY WILL CONTROL THE INCURRENCE OF EXTERNAL DEBT BY THE COMMONWEALTH AND ASSURE THAT ANY DEBT WHICH MIGHT BE INCURRED WILL BE FOR DEVELOPMENT PURPOSES.

AT THIS POINT, MR. CHAIRMAN, I WOULD LIKE TO COMMENT BRIEFLY ON THE PROCESS BY WHICH THE JOINT RECOMMENDATION YOU HAVE BEFORE YOU WAS REACHED. AS YOU KNOW, SECTION 902 OF THE COVENANT PROVIDES FOR THE APPOINTMENT BY THE PRESIDENT AND THE COMMONWEALTH GOVERNOR OF SPECIAL REPRESENTATIVES TO MEET AT LEAST EVERY TEN YEARS AND CONSIDER SUCH ISSUES AFFECTING OUR MUTUAL RELATIONSHIP AS EITHER GOVERNMENT MAY DESIGNATE.

AND NOTABLY, SECTION 902 PROVIDES THAT SPECIAL REPRESENTATIVES WILL IN ANY EVENT BE APPOINTED TO CONSIDER AND MAKE RECOMMENDATIONS TO CONGRESS REGARDING FUTURE MULTI-YEAR FINANCIAL ASSISTANCE TO THE NORTHERN MARIANAS AT LEAST ONE YEAR PRIOR TO THE EXPIRATION

OF EVERY PERIOD OF U.S. FINANCIAL ASSISTANCE.

AS THE COMMITTEE IS AWARE, THE CLOSE OF FISCAL YEAR 1985 MARKED THE END OF THE INITIAL MULTI-YEAR PERIOD OF GUARANTEED U.S. FINANCIAL ASSISTANCE UNDER THE COVENANT. ACCORDINGLY, IN 1984, PRESIDENT REAGAN AND GOVERNOR TENORIO EACH FORMALLY DESIGNATED SPECIAL REPRESENTATIVES PURSUANT TO SECTION 902.

ON OUR SIDE, THE GOVERNOR APPOINTED A BIPARTISAN PANEL WHOSE FOUR MEMBERS INCLUDED REPRESENTATIVES FROM ALL OUR MAJOR ISLANDS, THE ADMINISTRATION, THE LEGISLATURE, AND BOTH POLITICAL PARTIES. THIS GROUP, CHAIRED BY MYSELF AS LT. GOVERNOR, ACHIEVED A BROAD-BASED CONSENSUS AMONG THE VARIOUS COMMONWEALTH CONSTITUENCIES.

AMONG OTHER MATTERS, OUR SPECIAL REPRESENTATIVES EXPLORED THE QUESTION OF THE SCOPE OF THE ISSUES TO BE DESIGNATED FOR DISCUSSION WITH THE PRESIDENT'S SPECIAL REPRESENTATIVE. RELATIONS BETWEEN OUR ENFANT COMMONWEALTH AND THE UNITED STATES ARE SOMETIMES COMPLICATED BY THE EXISTENCE OF DIFFICULT POLICY ISSUES, SOLUTIONS TO WHICH IMPLICATE INTERESTS BEYOND OUR TWO GOVERNMENTS ALONE. IN VIEW OF THE FACT THAT EXPIRATION OF THE FIRST PERIOD OF MULTI-YEAR U.S. FINANCIAL ASSISTANCE WAS IMMINENT AND THE EXPECTATION THAT DISCUSSION OF POLICY ISSUES COLLATERAL TO THE QUESTION OF FUTURE FINANCIAL ASSISTANCE WOULD LIKELY HAVE RESULTED IN PROLONGED NEGOTIATIONS WITHOUT ANY ASSURANCE OF EFFECTIVE REOLUTION, BOTH SIDES DECIDED TO LIMIT THESE DISCUSSIONS TO THE QUESTION OF MULTI-YEAR FINANCIAL ASSISTANCE AS CONTEMPLATED BY SECTION 902.

MAY I NOTE HERE THAT THIS DECISION WAS NEITHER TAKEN LIGHTLY NOR WITHOT EVOKING A MEASURE OF DISSATISFACTION FROM SOME POLITICAL

QUARTERS WITHIN THE COMMONWEALTH; A FEW EXPRESSED THE VIEW THAT THE SCOPE OF DISCUSSIONS SHOULD BE EXPANDED TO INCLUDE SUCH COMPLICATED ISSUES AS TRADE BENEFITS, IMMIGRATION CONTROL, AND MARINE SOVEREIGNTY.

OF COURSE WE ARE AWARE, MR. CHAIRMAN, THAT MANY OF THESE ISSUES AFFECTING DEVELOPMENT IN THE COMMONWEALTH ARE NOT CAPABLE OF SOLUTION BY RENEWED FINANCIAL ASSISTANCE ALONE. AND ALTHOUGH SUCH ISSUES MUST BE CONFRONTED AND RESOLVED, GIVEN THE CIRCUMSTANCES I HAVE MENTIONED ABOVE, OUR REPRESENTATIVES DETERMINED THAT CONFINING DISCUSSIONS TO MULTI-YEAR FINANCIAL ASSISTANCE WAS A REASONABLE AND EFFICIENT MEANS OF PROCEEDING.

THIS DETERMINATION WAS MADE SOMEWHAT EASIER BY OUR CONCURRENT DECISION TO REQUEST THE PRESIDENT TC APPOINT A SPECIAL REPRESENTATIVE FOR A SUBSEQUENT ROUND OF DISCUSSIONS UNDER SECTION 902 TO DEAL WITH NON FINANCIAL ISSUES, AND TO PURSUE SOLUTIONS TO THOSE PROBLEMS IN OTHER FORUMS, INCLUDING THE CONGRESS ITSELF.

WE DO NOT BELIEVE THAT THESE ISSUES CAN BE EFFECTIVELY ADDRESSED, HOWEVER, UNTIL OUR PENDING MULTI-YEAR PERIOD OF COVENANT FUNDING, AND THE RESULTANT SEVEN YEAR DEVELOPMENT PLAN, ARE SECURE. THAT IS ONE REASON WE URGE EXPEDITIOUS ADOPTION OF OUR JOINT RECOMMENDATION BY THE CONGRESS.

AT THE MOMENT WE ARE WITHOUT THE OPERATIONS AND PLANNING SECURITY OF A SPECIFIC MULTI-YEAR FINANCIAL SUPPORT COMMITMENT. WHILE WE HAVE AGREED WITH THE PRESIDENT'S SPECIAL REPRESENTATIVE TO CONSIDER MANY OF THE PARTS OF OUR JOINT RECOMMENDATION OPERATIONAL PENDING CONGRESSIONAL ACTION NONETHELESS SPECIAL PROGRAMS ASSISTANCE FUNDS PROPOSED IN THE AGREEMENT ARE NEEDED TO IMPLEMENT RELATED FINANCIAL MANAGEMENT REFORMS.

THE SCHEDULE OF ANNUAL PAYMENTS IN THE PLAN BEFORE YOU IS INTENDED TO MINIMIZE INFLATIONARY IMPACT ON LONG-TERM CONSTRUCTION PROJECTS BY AUTHORIZING EARLY DOLLAR COMMITMENTS TO THOSE PROJECTS. THIS ADVANTAGE OF TIMING IS ANOTHER REASON WE URGE YOUR PROMPT APPROVAL OF THE JOINT RECOMMENDATION.

SIGNIFICANT CONSTITUTIONAL, LEGISLATIVE AND ADMINISTRATIVE CHANGES HAVE BEEN MADE IN CONJUNCTION WITH THE ANTICIPATED RENEWAL OF THE SEVEN YEAR FINANCIAL SUPPORT CYCLE. WE WISH TO CAPTURE THIS MOMENTUM AND DIRECT THE ENERGY AND COMMITMENT IT REPRESENTS INTO EFFECTIVE AND EFFICIENT OPERATIONS AND DEVELOPMENT PROGRAMS. THIS SPECIFIC SEVEN YEAR FINANCIAL SUPPORT COMMITMENT IS NEEDED NOW TO CATCH THE RISING WAVE OF ECONOMIC AND SOCIAL DEVELOPMENT IN THE COMMONWEALTH.

UNITED STATES FINANCIAL ASSISTANCE
FOR THE
NORTHERN MARIANA ISLANDS

MEMORANDUM REPORT SUBMITTED BY THE
GOVERNMENT OF THE NORTHERN MARIANA ISLANDS
IN SUPPORT OF SENATE JOINT RESOLUTION 192

BEFORE THE
UNITED STATES SENATE ENERGY AND NATURAL RESOURCES COMMITTEE
HEARING ON MULTI-YEAR COVENANT FUNDING
DECEMBER 3, 1985

UNITED STATES FINANCIAL ASSISTANCE
FOR THE
NORTHERN MARIANA ISLANDS

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INTRODUCTION: UNITED STATES FINANCIAL ASSISTANCE FOR THE NORTHERN MARIANAS ISLANDS

On July 10, 1985, Special Representatives of the President of the United States and the Governor of the Northern Mariana Islands concluded negotiations initiated in September 1984 pursuant to U.S. Public Law 94-241, the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union With the United States of America. The negotiations were directed toward reaching a joint recommendation to the Congress on future U.S. financial support for the Commonwealth. The Special Representatives executed a specific agreement for U.S. assistance over the next seven years, which has been submitted to the Congress for its consideration, as required by the Covenant.

This memorandum report is submitted to provide the Congress with an assessment of the achievements to date in realizing the principal goals embodied in the Covenant: the development of the economic and institutional resources required to sustain the financial responsibilities of local self-government and a progressively higher standard of living for the people of the Northern Mariana Islands as part of the American economic community.

Although cast as an analytical comparison of fiscal projections and achievements over the first seven years of United States financial assistance, the underlying conclusion of the report is clear: measured against the original development goals established by joint Commonwealth/U.S. planners at the outset of self-government in 1978, the Commonwealth has generally succeeded in meeting projected development targets. Internal resources, for example, have exceeded forecasts by a substantial margin and planned capital improvement priorities have, for the most part, been maintained.

More significantly, however, the first seven years of United States financial assistance under the Covenant has successfully promoted important structural changes in the Commonwealth economy and fostered an institutional maturing of local political organs. These trends auger well for the future and suggest that the Commonwealth has already achieved many of the pre-conditions for the realization of the central objective of the Covenant: the integration of the Northern Marianas into the American political family. And, while the magnitude of the fiscal, governmental and economic problems confronting the infant Commonwealth cannot be gainsaid, they seem integral to the development process itself and remediable with time and increasing familiarity with still novel political institutions.

In recognition of these positive trends, the joint recommendation of the special representatives is specifically configured to sustain the momentum of institutional and economic development by placing special emphasis on enhanced capital improvement assistance and heightened control of capital planning and expenditures.

As more fully detailed in the body of the report, over half of the total Covenant financial assistance during the next seven fiscal years is earmarked for development of a "short list" of capital infrastructure projects. And, as a measure of the Commonwealth's Commitment to achieving greater financial responsibility, Covenant assistance for government operations is scheduled to decline over the life of the new funding period by an average of $1,000,000 annually.

Moreover, the terms of the new agreement are tailored to interlock with a matrix of local initiatives, including newly established independent development and utility authorities intended to augment local institutional efforts in achieving the goals established by the Covenant. Finally, the agreement provides for an array of technical assistance in the specific areas of financial management, government efficiency, business development and public financing techniques.

Covenant Goals and Objectives

The Covenant established a political relationship designed to integrate the Northern Mariana Islands into the American political family. Covenant funding was not intended as either a payment for new U.S. territory or as a beneficent gift to the people of the Commonwealth. Rather, it was intended to provide the means by which the people of the nine islands could achieve a progressively higher standard of living as part of the American economic community, and to provide the means to develop the economic resources needed to meet the financial responsibilities of local self-government.

The level and form of assistance during the first seven years of the political relationship provided by Covenant Section 702 was determined by mutual agreement as to the level of U.S. funding required to permit progress in achieving an American living standard, and in developing a system of local government administration consistent with the norms established by other U.S. jurisdictions. Both of these goals were taken into extensive account during the transition period in which the Covenant was developed and adopted by the Northern Marianas and the United States.

The Planning Process

Early in the course of Covenant negotiations, the importance of government organization and multi-year socio-economic development planning was recognized. The President's Personal Representative and the Marianas Political Status Commission formed a Joint Commission, whose secretariat, the Office of Transition Studies and Planning (OTSP) was established on Saipan in 1976. The details of the planning process may be found in Appendix A. At this point, it is sufficient to note that the extent to which planned programs and projects were implemented, and the extent to which development targets have been met, provide the most appropriate basis for assessing application of the Commonwealth's fiscal resources during the first multi-year U.S. financial support period.

Criteria for Assessing the Application of Commonwealth Government Financial Assistance

The financial resources available to the Commonwealth Government during the first seven-year period of Covenant financial support from the U.S. included internal resources consisting of local taxes, government fees and reimbursements and autonomous agency revenues. External resources available to the Northern Marianas through the Covenant's guarantees included the annual payments schedule for government operations, capital improvement projects and economic development loans; federal grants for social and economic development and infrastructure improvement projects; and U.S. lease payments for military land use on the island of Tinian.

At various times in the past, the Department of the Interior and other U.S. agencies have reviewed the application of financial resources by the Northern

Marianas Government. These reviews have focused, for the most part, on technical allocations of funds and, recently, on Commonwealth Government operating deficits. Generally, reviews have not taken into direct consideration the goals and objectives established for the Northern Marianas by the Covenant, the impact of Commonwealth Government financial management on progress in attaining these goals and objectives, or certain unique geographic, cultural, social, economic and political conditions in the Northern Marianas. Thus, the reviews have tended to be accounting audits concerned with technical deficiencies rather than assessments of the extent to which the application of Commonwealth Government financial resources has advanced the interests of the U.S. and the welfare of the people in the Northern Marianas, as described in the Covenant.

Accounting audits presume a pre-existing base of sophistication and development, and they measure financial performance against an absolute standard of generally accepted accounting principles. Accordingly, while they may reveal auditing discrepancies or technical deficiencies in performance, they do not accurately, or even explicitly, address the effects and impacts of applied financial resources on societal development. Any proper assessment of Commonwealth Government financial applications must take into account the base level of political development and administrative capacity in the Northern Marianas in 1978, and the general development goals and objectives for the Commonwealth as originally planned. Specifically, such assessment should evaluate the use of financial resources in terms of progress made in establishing the political and administrative institutions of self-government, in developing a viable economy capable of supporting these institutions, and in terms of a progressing standard of living.

Since these goals and objectives were the focus of the transitional planning effort, comparisons between the planned application of fiscal resources and the actual application of fiscal resources will generate a proper and useful assessment of the first multi-year period of U.S. financial support.

SUMMARY OF ASSESSMENT OF APPLICATION OF FINANCIAL RESOURCES

In the detailed sections that follow, comparisons are made between PROJECTED AND ACTUAL FINANCIAL RESOURCES, between PROJECTED AND ACTUAL APPROPRIATIONS, and between PROJECTED AND ACTUAL EXPENDITURES for the 1978-1984 period. A detailed discussion of OPERATING DEFICITS during this period is included, followed by assessment conclusions with respect to the Covenant goals and objectives. The discussion of the supporting data in the accompanying comparative tables is in CONSTANT 1978 DOLLARS for convenience in analysis.

PROJECTED AND ACTUAL RESOURCES are compared in terms of INTERNAL RESOURCES (local taxes, user charges, fees for government permits), and EXTERNAL RESOURCES (Covenant financial support and other U.S. grants). ACTUAL INTERNAL RESOURCES during the assessment period were $79,300,000, while PROJECTED INTERNAL RESOURCES were $71,200,000. More than $3,600,000 of the excess was due to use of the local tax code rather than the planned application of the Internal Revenue Code as a local tax. The balance of the excess results from unforeseen demand for billable government services and unplanned medicaid reimbursement.

ACTUAL EXTERNAL RESOURCES of $228,300,000 exceeded PROJECTED EXTERNAL RESOURCES of $159,700,000 by $68,600,000. The excess is partly due to the military lease of Tinian in 1983, which was unplanned. The proceeds from the lease are not expendable, but are preserved in a permanent trust with the interest available for expenditure. Other factors increasing external resources over projections were unanticipated grants for specific projects, including appropriations for the new hospital and FAA grants for airport construction.

APPROPRIATIONS and EXPENDITURES are assessed for GOVERNMENT OPERATIONS, CAPITAL IMPROVEMENTS and INDEPENDENT AND AUTONOMOUS AGENCIES. Overall, ACTUAL APPROPRIATIONS of $183,300,000 are compared to PROJECTED APPROPRIATIONS of $139,300,000. The discrepancy arises from realization of unanticipated internal resources, and from appropriation of user charges and autonomous agency revenues which the planners assumed would be returned to revolving funds. ACTUAL EXPENDITURES of $248,335,700 exceeded PROJECTED EXPENDITURES of $209,758,000 by $38,577,700. Almost all the excess was in the GOVERNMENT OPERATIONS category.

In current dollars, during the 1978-1984 period, financial resources available for expenditure were $281,000,000, while total expenditures were $268,900,000. In this regard, there was no deficit. However, technical restrictions within the Covenant on specific use of funds results in an operations deficit of $12,500,000. This deficit is the product of unaccrued revenues of $3,700,000 and insufficient operations resources for the government pension fund, fuel for power generation and medical referral. The deficit has been financed by deferring government share contributions to the pension fund, reprogramming Economic Development Loan Funds for power and medical referral needs, and by reprogramming capital improvement funds.

In the final assessment of the use of financial resources by the Northern Marianas Government, progressing living standards are discussed in the areas of wages and salaries, housing, education, and health care. There has been an important shift in economic activity from the public sector to the private sector and major economic reforms have been generated in government institutions.

COMPARISON OF PROJECTED AND ACTUAL FINANCIAL RESOURCES
FY 1978-1984

Through FY 1984, the total financial resources available to the Northern Marianas Government during the first seven years of Commonwealth status amounted to $437,000,000 (Table 1). In current dollars, these resources consisted of $117,300,00 in internal resources, $196,700,000 in Covenant grants and payments, and $123,000,000 in various other U.S. grants. For the most part, these resources had been foreseen and projected in the socio-economic plan. In Table 2, the financial resource projections of the transitional planners are compared to actual resources during FY 1978-1984 in constant 1978 dollars.

Internal Financial Resources

Internal resources of the Commonwealth Government consist of local taxes; user charges, fees and reimbursements collected for government services and permits provided to the general public; and autonomous agency revenues, such as airport and seaport fees of the Commonwealth Ports Authority, Economic Development Loan

Fund interest revenues and Marianas Public Land Corporation revenues. Internal resources projected for FY 1978-1984 amounted to $71,200,000, compared to actual resources of $79,300,000, an underestimation of $8,100,000 (Table 2). Thus, by this measure it is quite clear that the Northern Marianas met in full the internal revenue targets established by the transitional planners as consistent with development objectives during the period.

Local Taxes

The implementation of the U.S. Internal Revenue Code (IRC) as a local tax in the Commonwealth was originally scheduled for January 1978. The transitional planners judged that continuation of existing local income taxes, in addition to taxes established by the IRC, would be inconsistent with attempts to stimulate the rapid private sector growth and to achieve the significant gains in personal disposable income which were the goals of the socio-economic plan. Accordingly, it was assumed that the IRC would substitute for the pre-existing local tax code. Because of personal income distribution in the Northern Marianas, and the local flat tax rates for individuals and businesses, the planners judged that the substitution of IRC taxes for local taxes would be revenue neutral.

Although, for a variety of reasons, the IRC was not implemented during FY 1978-1984 as planned, the projections of tax revenues which would have been generated by the IRC were remarkably close to tax revenues actually generated by the pre-existing local tax code. Actual tax revenues were $39,500,000, compared to projected revenues of $35,900,000 (Table 2). Almost all of the difference, $3,600,000, was attributable to changes in the local tax code in 1979 and 1982.

User Charges, Fees and Reimbursements

The projections of Commonwealth Government user charges, fees and reimbursements for FY 1978-1984, totaling $7,700,000, were substantially below actual revenues, $21,600,000, a difference of $14,000,000 (Table 2). However, a substantial portion of the difference, perhaps 60-75 percent, is explained by the planning assumption that a Saipan Electric Power Authority (SEPA) would be established as an autonomous agency in 1978, and that such an agency would be the recipient of all electric utility revenues. This assumption proved to be invalid and electric utility revenues continued to be collected directly by the Executive

Branch. Thus, actual user charge revenues included electric utility revenues, and projected user charge revenues did not.

In addition, transitional planning projections did not include medicaid reimbursements for medical services. These reimbursements may have amounted to $500-$750,000 during FY 1978-1984. Together, electric utility and medicaid reimbursement revenues probably account for as much as $8-$9,000,000 of the $14,000,000 discrepancy between projected and actual revenues in this category. The remainder of the discrepancy, about $5,000,000, is the result of unforeseen increases in demand for government services, generally attributable to private sector growth which was more rapid than projected.

Independent and Autonomous Agency Revenue

The $9,500,000 difference between projected revenues of autonomous agencies, $27,700,000, and actual revenues, $18,200,000, during FY 1978-1984 (Table 2) is explained almost entirely by invalid assumptions that an autonomous electric utility agency would be established in 1978, and that electricity rates would be increased to enable such an agency to borrow for capacity development and distribution system improvements. Given the organizational problems of the new government during its initial years, such radical departures from previous experience were not implementable. Thus, revenues continued to flow to the Executive Branch and adjustments in electric power rates were delayed.

External Financial Resources

External resources of the Commonwealth Government include direct U.S. grants and payments specified by the Covenant, direct U.S. grants in excess of Covenant grants for specific projects, and a broad variety of other U.S. agency program grants for which the Commonwealth qualifies. During FY 1978-1984, the Commonwealth Government received $141,700,000 in Covenant funds and $86,600,000 in other U.S. grants, for a total of $228,300,000 (constant 1978 dollars) in external resources (Table 2).

These resources exceeded planning projections, $159,700,000, by $68,600,000 (Table 2). The discrepancy is explained, in part, by the $23,700,000 U.S. lease payment for Tinian which was excluded from projections because of uncertainties as to when, if ever, the payment would be made. The remainder of the discrepancy resulted largely from U.S. generosity in providing unanticipated grants to fund projects which otherwise would have been financed with borrowed funds, and to upgrade projects beyond the minimum standard which Commonwealth Government resources allowed.

Covenant Grants and Payments

Direct budget support grants, along with the Tinian military lease price, are specified by the Covenant in constant 1978 dollars. Accordingly, there is little difference between projections and actual constant dollars budget support grants (Table 2). However, there was a difference between projections of total Covenant funding, $118,100,000, due to excluding of the Tinian military lease payment for the projections. Because of problems arising from bitter sentiments among some groups about the alienation of U.S. Indian lands and land in other U.S. territories, the U.S. made clear its concern about land alienation in the Northern Marianas during Covenant negotiations. To meet this concern, it was mutually agreed that both the Covenant and the Commonwealth Constitution would restrict land alienation. Further, to provide demonstrative evidence that the Tinian land leased to the U.S. had been fairly acquired by the U.S., and to alleviate local concerns that the land and, soon, the land lease payment would both be gone, Northern Marianas planners anticipated that the Commonwealth Constitution would preserve U.S. land lease monies, and that only the interest earned on the monies would be an available financial resource.

Other U.S. Grants

U.S. grants, other than direct grants provided by the Covenant, amounted to $123,000,000 during FY 1978-1984 (Table 1). In 1978 constant dollars, these grants, $86,500,000, exceeded planning expectations by $44,900,000 (Table 2). However, $3,900,000 of this amount substituted for funds which the planners assumed would have to be borrowed by the Saipan Electric Power Authority, and $10,100,000 was in excess of the $3,000,000 which the planners had estimated to be provided by the U.S. Government for new hospital construction. Also, $9,500,000 in Federal Aviation Administration (FAA) grants were made available for unplanned airport improvements. The remainder, approximately $21,400,000, was the result of unforeseen, and unforeseeable, miscellaneous U.S. agency activity in the Commonwealth.

COMPARISON OF PROJECTED AND ACTUAL APPROPRIATIONS
FY 1978-1984

During FY 1978-1984, the Commonwealth Government appropriated or allotted $261,000,000 (Table 3) against $260,900,000 in financial resources available for appropriation or allotment. These available resources included internal resources, $117,300,000, Covenant operations grants, $96,900,000, and Covenant capital improvement grants, $46,800,000 (Table 1).

In constant 1978 dollars, actual appropriations, $183,300,000, may be compared to $139,300,000 projected (Table 4). The discrepancy between actual and projected appropriations results from the realization of actual internal resources not anticipated (Table 2), and from appropriations of user charges, reimbursements and autonomous agency revenues which the planners assumed would be returned to revolving funds and, therefore, unavailable for appropriation. As a practical matter, this assumption was correct because all of these revenues were, in fact, appropriated back to collecting agencies.

Appropriations for Operations

The technical difference between the actual and projected treatment of user charges and reimbursements explains much of the difference between projected appropriations for operations during FY 1978-1984, $101,100,000, and actual appropriations, $116,000,000 (Table 4). The projections did not include appropriations of either the revenues from the sale of electrical power, perhaps as much as $7,500,000, or user charges and reimbursements for medical services, perhaps $1,500,000 to $1,740,000.

Appropriations for Capital Improvements

In regard to Capital improvements, actual appropriations during FY 1978-1984, $32,200,000, did not meet planning projections, $35,700,000 (Table 4). However, appropriations for housing, education, public safety, electric power and general administration all exceeded projections. It should be noted that electric power appropriations were in addition to the U.S. direct grant for the new power plant on Saipan. It should also be noted that a substantial portion of appropriations for general administration was for heavy equipment required by the Public Works Department. Table 5 presents an analysis of the actual and projected distribution of capital improvement appropriations by sector. In general, except for electrical power, actual appropriations reflected the development priorities established by the Northern Marianas planners.

In setting capital improvement priorities, it was anticipated that substantial assistance, $15,100,000 (constant 1978 dollars), would be available in the form of U.S. grants, other than Covenant grants, for capital improvements (Table 6). Actual grants amounted to $38,200,000. The difference between actual and projected grants is explained by unforeseen U.S. grants for power ($3,900,000), hospital construction ($10,100,000) and airport improvements ($9,500,000). These grants, totaling $23,500,000, either relieved the Commonwealth from incurring debt which the transition planners assumed would be necessary, or permitted construction in excess of the minimum construction standards used by the planners in projecting capital improvement requirements.

Appropriations for Independent and Autonomous Agencies

Appropriations for independent and autonomous agencies reflected the practice of appropriating user charges and reimbursements back to collecting agencies. However, they also included subsidies for agency operations and provided agencies with funds to meet matching funds requirements of federal program grants. Agency revenues available for appropriation back to the agencies amounted to $18,200,000 (constant 1978 dollars) during FY 1978-1984 (Table 2), while total appropriations were $35,200,000 (Table 4). Thus, the difference between agency revenues and appropriations was $17,000,000. These actual subsidies may be compared with projections of $2,500,000 in agency subsidies (Table 4).

COMPARISON OF PROJECTED AND ACTUAL EXPENDITURES
FY 1978-1984

Total expenditures of the Commonwealth Government amounted to $347,200,000 during FY 1978-1984 (Table 7). Of this amount, $199,900,000 (57.6 percent) was expended from the general fund for operations of the three branches of government, $45,600,000 (13.1 percent) was expended from the capital improvements fund, $78,300,000 (22.6 percent) was expended from federal grant and other funds for programs and projects, and $23,400,000 (6.7 percent) was expended by independent and autonomous agencies.

Expenditures for Operations

Total expenditures for operations, in constant 1978 dollars, exceeded planned expenditures by $38,000,000 during FY 1978-1984, $139,100,000 compared to $101,100,000 (Table 8). Approximately $15,000,000 of the difference between actual and planned expenditures was attributable to more rapid real increases in government salaries and fringe benefits, and to greater expansion of government employment, than was planned.

While planned real increases in government salaries and fringes, 18 percent for the period, were exceeded by only 4 percent, amounting to 22 percent for the period, the timing of the increases made a substantial difference between planned and actual employee compensation during FY 1978-1984. (The OTSP Socio-economic Plan called for a 20 percent real increase in government salaries and fringes between 1978 and 1985, Vol. I, p. 11.) Local expectations associated with the change in political status were far greater than anticipated, making early increases in the government salary/fringe base a political imperative. It should be noted however, that while the average salary and fringe per government employee increased from $4,800 to $10,090 in current dollars, the real increase, in constant 1978 dollars, was only from $4,800 to $5,855.

The Northern Marianas planners projected requirements for an average of about 2,100 government employees in 1985 (OTSP socio-economic plan, Vol. I, p.11). In 1984, the actual average number of employees was 2,484 (Table 9), approximately 400, or about 20 percent, more employees than planned. However, projections underestimated the rate of private sector growth, and the increased demand which private sector growth created for government services. For instance, projected private sector employment was to average 4,600 wage and salary earners in 1985 (OTSP Socio-economic Plan, Vol. I, p.8..pa). By 1983, actual private sector employment was 7,350, or almost 60 percent greater than projected for 1985 (draft report of the Inspector General, Department of Interior, February 1985, Exhibit 15). Thus, while there are serious questions as to whether government employees are efficiently allocated to perform needed services, and there is always the potential for reducing staff through improved personnel management, it cannot be concluded that government employment in excess of projections is redundant. The Commonwealth Government is currently reviewing staff requirements and will make whatever adjustments may be necessary to increase the efficiency of government in the near future.

Expenditures for Capital Improvement

Actual capital improvement expenditures during FY 1978-1984, $35,700,000 constant 1978 dollars, closely matched projections, $36,900,000 (Table 8). The $1,200,000 difference may be explained almost entirely by the planning assumption that expenditures would occur in the same year as appropriations, whereas, in fact, they lagged behind appropriations. More important than the difference between actual and planned expenditures, however, is the definition of operations and capital improvement expenditures.

It was unforeseen by the planners that the equipment base of the Northern Marianas, transferred to the new government from the Trust Territory in 1978, would consist largely of equipment in poor repair or which had reached the end of its useful life. There was little choice but to replace most of the equipment base. This was accomplished by use of Covenant capital improvement funds, rather than operations funds. There was no way that the needed equipment could be obtained from limited operations funds and, at the same time, preserve the integrity of essential programs. Further, it made no sense to construct facilities with capital improvement funds when there would not be funds to equip the facilities. A decision to expand the definition of capital improvements to include equipment was made in January 1978, with the concurrence of the U.S. Controller's Office in Guam.

As a result of the recent negotiations with the President's special representative, the Commonwealth Government has agreed that future equipment needs will be met from operations funds in accordance with Commonwealth Public Law 4-46, which became law on October 1, 1985. It is important to note, however, that this change will place a continuing and heavy burden on the Commonwealth Government. Equipment requirements associated with many capital projects, e.g., ports, are so great that they cannot be met in the operations budget without severely limiting future improvements in education, health care and other social services.

Autonomous and Independent Agency Expenditures

Independent and autonomous agency expenditures of $16,220,000 fell short of projections by $13,900,000 (Table 8). This reflects the alternative expenditure (and availability) of federal grant funds, for power and other capital requirements, which the planners assumed would be met from autonomous agency revenues, and borrowings. During the FY 1978-1984 period, federal grant funds exceed projections by very nearly the amount of autonomous agency expenditure shortfall ($15,700,000 compared to $13,900,000 - Table 8).

OPERATING DEFICITS
FY 1978-1984

During FY 1978-1984, financial resources available for expenditure by the Commonwealth Government, including internal revenues and Covenant Section 702(a), (b), and (c) grants, amounted to $281,000,000, while total expenditures amounted to $268,900,000 (Table 10). There was thus no overall Commonwealth deficit. However, because of restrictions on the allocation of Covenant grant funds, and because of operations requirements of the Commonwealth Government, general fund expenditures, $199,900,000, exceeded funds available for operations, $187,400,000, by $12,500,000 (Table 11), resulting in an operations deficit.

This deficit is the product of two major factors. First, as a technical matter, the Commonwealth Government accounting system accrued certain expenses, but did not accrue certain revenues which were due to the government. The accounting difference between accrued expenses and cash revenues accounted for $3,700,000 of the deficit.

Second, the Commonwealth Government incurred certain expenses which it simply could not meet from available resources for operations. These included approximately $5,000,000 which the government was obligated to contribute to the unforeseen expenses of the government employees retirement fund, and $3,000,000 in unforeseen operating expenses for power generation (fuel oil) and medical referrals. The inability to meet these expenses was less the product of a deliberate unwillingness to stay within the limits of available resources than the result of political institutions which could not accept the financial implications of the government retirement program, or increase user charges in the face of unforeseen expenses for essential services. Because political development was not far enough advanced to resist the pressure of precedent established by the Trust Territory retirement program, the Commonwealth Government retirement program was probably too generous and prematurely implemented. By the same token, the political system was not sufficiently mature to overturn the long-standing policies of essential services subsidies established by the United States administration during the previous thirty years.

The operating deficit has been financed by deferring government payments to the retirement fund, reprogramming Economic Development Loan funds ($3,000,000) to meet power and medical referral requirements, and by reprogramming some capital improvement funds, both carry-over funds from the Trust Territory and Covenant Section 702(b) funds, to meet cash flow requirements of operations.

ASSESSMENT OF FINANCIAL RESOURCE APPLICATIONS
FY 1978-1984

The financial management problems of the Commonwealth Government are integrally associated with the development process. They result from political naivety and administrative inexperience which can only be remedied over time. But, regardless of these problems, the Commonwealth has generally met planned targets for the generation of internal resources, maintained planned priorities for capital improvements and provided support for most of the planned social and economic development programs. As a result, significant progress has been made toward attaining Covenant goals and objectives. Living standards, while still well below American standards, have increased substantially, and structural changes in the Commonwealth economy have met many of the pre-conditions for economic development to support American living standards. Most important, institutional development required for an efficient government, capable of meeting its financial responsibilities, has progressed significantly. It is in terms of these factors, rather than audit discrepancies alone, that the Commonwealth financial performance should be evaluated.

Living Standards (Wages and Salaries, Housing, Education, Health Care)

While average wages and salaries in the Commonwealth increased by approximately 66 percent, from $3,926 to more than $6,500 per employed person, since 1978 (Table 12), there has been virtually no increase in real wages because of increases in consumer prices (Table 13). However, an expanding economy has resulted in a 33 percent increase in employment, from about 7,500 to approximately 10,000 wage earners (Table 12), which has increased family real incomes by, perhaps, 25-30 percent.

Major improvements have occurred in housing, education and medical care. While 25 percent of housing in the Commonwealth remains substandard, the amount of substandard housing has been significantly reduced since 1978 when it was estimated that almost 60 percent of the housing stock was substandard. In addition, the total stock of housing increased by approximately 15 percent, or by 500 single-family units, from about 3,500 units in 1978 to almost 4,000 units in 1984.

In education, the school system is producing more high school graduates than ever before. But, more important perhaps, large numbers of students are seeking vocational education, 2,935 of 5,032 total students in 1983-1984, to develop business and industrial skills. The 225 students who are currently enrolled in post-secondary courses in Guam, Hawaii and on the U.S. Mainland may be compared to a total of less than 1,000 persons in the Commonwealth who had any post-secondary education whatsoever less than a decade ago.

Health care has improved as the result of increased capability to provide services delivered by qualified health care professionals, and to provide outreach services in remote locations. New outreach clinics in Tinian and Rota, and the new 74-bed acute care hospital on Saipan, will soon result in major improvements in the health care system.

Structural Changes in the Commonwealth Economy

Perhaps the most impressive development in the Commonwealth economy has been the shift in economic activity from the public sector to the private sector of the economy. Since 1978, the number of private sector business enterprises increased more than 300 percent, from 450 to almost 1,500 enterprises, and private sector employment increased from 68 to 75 percent of total employment, now accounting for 7,500 of the 10,000 salary and wage earners (draft report of the Inspector General, Department of the Interior, February 1985, Exhibit 15).

The tourist industry, which serves almost 150,000 visitors to the Commonwealth annually, has created many direct tourist service jobs. But it has also stimulated construction and other private sector activity. This activity, in turn, has led to the development of a broad range of technical capabilities and labor skills which have created external economies for both government and businesses. The availability of local private contractors and wholesale inventories has eliminated the necessity and expense for government agencies and business enterprises to depend completely on their own labor forces and inventories to support operations. At this point, a firm private sector base for future development has been established.

Institutional Development

It would be both unfair and naive to underestimate the time required for the people of the Northern Marianas to fully understand all of the responsibilities and processes associated with representative self-government. Further, it would be unfair and naive to expect all of the education, professional/technical training and experience deficiencies of the Commonwealth to be remedied in the few short years that have elapsed since the initial period of U.S. financial support was implemented. Unlike most American communities with long traditions of self-reliance, long familiarity with the institutions of self-government and long experience in administering public funds, the Northern Marianas is still learning how to allocate resources between public and private investment and consumption, and how to allocate administrative and fiscal responsibilities among the branches and agencies of government.

Regardless of constitutional specification and delegation of responsibilities, the process of defining the fiscal roles of the Executive and Legislative Branches of government has been long and laborious. It has been complicated by a slow change in perspectives which resulted from historical dependency on the policies and economic limits established by the U.S. administration. These perspectives fail to provide recognition of requirements for limitations imposed by self-discipline, rather than by the decree of an administering authority. It has also been complicated by lack of experience with the checks and balances which characterize American governmental relationships. But all of this is less important than the fact that political and administrative development is occurring, and that the structure and administration of government are slowly, but surely, approaching American standards for local government.

It is of particular significance that both the legislative and executive branches of government have reached a stage of development where they can now institute major economic reforms. In 1983, a comprehensive Planning and Budget Act was enacted and recently Commonwealth Public Law 4-54 established a strict and significantly reduced ceiling on the operations budget for the Legislature.

Other recent legislation explicitly addresses the problems of utility and other government services subsidization, as well as the mobilization of resources for development. Commonwealth Public Law 4-47, effective October 1, 1985, established a Commonwealth Utilities Corporation to manage electric and other utilities. In addition to providing for improved collection of user charges for services, and requiring new rates which will permit the full recovery of utility costs from user charges within three years, the law provides for and encourages the privatization of utilities.

Commonwealth Public Law 4-49, effective May 31, 1985, established the Commonwealth Development Authority (CDA) to de-politicize the allocation of development funds available to the Commonwealth, and to plan and deploy in a rational manner, the Commonwealth's resources for capital improvements. In addition, the CDA will control the incurrence of external debt by the Commonwealth, and assure that any debt which might be incurred will be for development purposes.

FUTURE U.S. FINANCIAL ASSISTANCE

The agreement between special representatives of the Governor of the Commonwealth of the Northern Mariana Islands and a Special Representative of the President of the United States, dated July 10, 1985 (Appendix E), specifies terms and amounts of U.S. financial assistance to the Northern Marianas for the next seven-year period, during FY 1986-1992. The agreement, which is subject to the approval of the U.S. Congress, provides assistance for government operations, totaling $100,500,000; assistance for capital development, totaling $126,000,000; and special programs assistance, totaling $1,500,000. Special programs include one-time payments, in FY 1986, of $1,000,000 for Commonwealth Health Center start-up costs, and $500,000 for technical assistance in developing a plan to fully fund the government employees' retirement system.

Of particular interest in the agreement are the schedules for operations and capital development assistance during the seven-year period. Government operations assistance is scheduled to decline, from $17,800,000 in FY 1986 to $10,300,000 in FY 1992, at a rate of approximately $1,000,000 per year. Capital development assistance is scheduled to increase rapidly, from $8,500,000 in FY 1986 to $25,200,000 in FY 1989, then to decline to $17,400,000 in FY 1992.

Assistance for Operations

The agreement reflects success in approaching the Covenant's goal of developing economic resources sufficient to meet the financial responsibilities of local self-government by decreasing reliance on the United States for operations support by approximately $1,000,000 per year. The schedule of government operations assistance reflects the increasing maturity and efficiency of the Commonwealth Government and its increasing capabilities to generate internal revenues to support its operations. However, a problem, mentioned elsewhere in this report, is created by new requirements to procure all equipment from operations budgets in the face of declining assistance for operations (Appendix E, Part II, Section 4-g). The problem is ameliorated somewhat by the equipment base which has been developed since 1978, and by the increasing availability of contractor services, particularly in Saipan, which will reduce government equipment needs.

Without doubt, a larger portion of the operations budgets will have to be allocated to equipment over the next seven years. The Commonwealth intends that commitments in the new agreement to reduce the overall size of government, and to transfer selected functions to the private sector, will accommodate this demand on operating resources. In addition, the increasing development of the private sector in the Commonwealth should make certain types of equipment, particularly heavy construction and agriculture machinery, available to the government on an as-needed rental basis, rather than by purchase and ownership.

Capital Development Assistance

The schedules for capital development assistance recognize that the Commonwealth has entered a crucial stage of development. Rapid private sector development, based on tourism, is creating new infrastructure needs even faster than old needs can be met. Further, while the income (and tax) benefits of rapid growth will be realized in the future, the resources to provide the infrastructure necessary to facilitate growth are required immediately. If the Commonwealth is ever to develop an economy capable of truly supporting self-government, it must have further assistance in meeting the infrastructure requirements for growth.

Currently, construction has already commenced on new hotel and other tourist facilities in Saipan which will increase tourist industry capacity by 100 percent within the next 18-24 months. In addition, land has been acquired and detailed plans have been prepared for another 25-50 percent increase in hotel capacity within 24-36 months. Unless basic infrastructure is developed, this capacity will never be utilized.

Water, sewer, power and roads are not adequate to meet even current needs, much less the needs which will be created by an additional 150-200,000 tourists each year, and by the businesses which must be created to serve them. Perhaps most difficult are the environmental problems which large numbers of tourists will continue to create in the fragile island settings. Sewage and solid waste disposal are now developing into major concerns.

The magnitude of infrastructure problems is illustrated by the financial implications of developing an adequate seaport in Saipan. The existing port is not only obsolete and deteriorating as the result of age exceeding the years for which it was originally designed and constructed, but it is inadequate to meet even current shipping needs. The U.S. Army Corps of Engineers has estimated that, given physical conditions, more than $40,000,000 will be required to reconstruct the facility to accommodate modern ships and current and future cargo volumes. Unfortunately, an island society has few alternatives to water transportation.

But capital development needs are not just confined to requirements for economic development. There is still much to be done in meeting the needs of social development. While capital requirements for health and public safety already have been largely met, requirements for new schools and other public facilities remain. Also, despite major expenditures for power, water and sewage, many people still lack access to these utilities, or suffer from inconsistent and low quality service because of inadequate investment in the utilities.

Capital Development Planning

The transitional socio-economic plan developed eight years ago was not aimed at meeting all development requirements, or achieving all Covenant goals and objectives, prior to 1986. Rather, it attempted to identify immediate needs and to allocate limited available resources among them according to a rational set of priorities. By providing guidance during initial years of the Commonwealth, the plan has served the Northern Marianas and the United States well. However, since the plan was prepared in 1977, conditions, needs and available resources have changed. Accordingly, the agreement between the special representatives recognizes requirements for a re-assessment of needs, a re-evaluation of available resources, both internal and external, and the development of new priorities. Recent statutes enacted by the Commonwealth have prepared for this.

The new Commonwealth Development Authority, established in May 1985 by Commonwealth Public Law 4-49, is charged with preparing and implementing new capital development plans which will allocate and program resources to accelerate social development and, equally important, support rapid economic development. The agreement of the special representatives requires administration of the $126,000,000 scheduled for capital development by an autonomous development financing agency such as the CDA (see Appendix E, Part II, Section 4-f). This agency must establish development objectives and priorities and a seven-year strategic plan to achieve them, in conjunction with the Commonwealth Executive and Legislative Branches. The plan is subject to agreement of the United States. It is expected that the capital development funds provided under the new seven-year agreement will be compounded through leveraging with the proceeds from investments, bonds and other financing mechanisms being expended for development projects.

Another example of increasing sophistication in government administration in the Northern Marianas is Commonwealth Public Law 4-47, which establishes an autonomous public utilities corporation. This agency is fully authorized to manage or supervise delivery of all public utility services, including power, water and sewage. In exercising its authority, the Commonwealth Utility Corporation is mandated to adjust utility service rate structures and collections so that, within three years, cost of operation and delivery of a particular service will be user-paid. The Commonwealth Utility Corporation is also required, whenever feasible, to contract with the private sector for assumption of its various duties.

CONCLUSION

Since the Commonwealth of the Northern Mariana Islands was established in 1978, substantial progress has been made toward integrating these new Americans into the United States political family. The preliminary, initial goals of United States multi-year financial assistance pursuant to the Covenant -- a progressing standard of living and development of an economy capable of supporting local self-government -- have, in greater part, been reached. In many respects, the Commonwealth has already entered a period of economic "take-off". More opportunities, for more people, exist today than ever before. The potential for the future has never been greater. However, without continuing financial assistance from the United States - assistance designed to support the original goals of the Covenant and the progress made to date - the "take-off" will not be sustainable.

APPENDIX A

THE JOINT MARIANAS/U.S. COMMISSION ON TRANSITION

THE JOINT MARIANAS/U.S. COMMISSION ON TRANSITION

In May 1974, during the course of Covenant negotiations, the Personal Representative of the President and the Marianas Political Status Commission (MPSC) agreed that a Joint Marianas/U.S. Commission would be established to plan and conduct certain political events associated with political status transition; to prepare a government organization plan; and, based on projections of Covenant and other available financial resources, to prepare a multi-year socio-economic development plan. The Joint Commission, with the Personal Representative of the President and the Chairman of MPSC serving as Co-Chairmen, was formed in late spring of 1976. Funding for the Commission, approximately $1,500,000, was included in the FY 1976 supplemental appropriation for the Marianas District of the U.S. Trust Territory of the Pacific Islands (USTTPI). Of this amount, $315,000 was designated for administration, $255,000 was designated for political status transition events, and $930,000 was designated for government organization planning ($255,000) and socio-economic development planning ($675,000).

In early summer of 1976, the secretariat of the Joint Commission, the Office of Transition Studies and Planning (OTSP), was established on Saipan and commenced work on transition events and the government organization and socio-economic development plans. The planning work of OTSP was completed in early autumn 1977, prior to the constitutional convention, and its other work was completed with the installation of the new government on January 9, 1978. Shortly thereafter, both the Joint Commission and the OTSP were dissolved.

Covenant goals and objectives provided the general terms of reference for the Joint Commission, and agreements between the parties during Covenant negotiations provided the specific terms of reference. While the Commission's government organization and socio-economic development plans were not intended to be blueprints to be followed without deviation, they were intended to provide rational and realistic guidelines for establishing self-government and applying available financial resources to attain Covenant goals and objectives.

The Commission's government organization plan was intended to provide an appropriate governmental structure which could be established quickly. The socio-economic plan, identified and specified programs and projects to maximize progress in socio-economic development during the initial period of Covenant funding by programming the use of available resources for the first seven years of commonwealth status.

The Office of Transition Studies and Planning (OTSP)

As the secretariat of the Joint Commission, OTSP was responsible for the Commission's technical planning work. To facilitate this work, OTSP retained the Institute of Public Administration (IPA), a non-profit organization of public administration specialists based in New York, as its consultant for government organization planning, and Robert R. Nathan Associates, Inc. (RRNA), a Washington, D.C. firm of development economists, as its consultant for socio-economic development planning. In addition, Pacific Planning and Design, Inc., an architectural and engineering firm in Guam, was retained as the consultant for physical planning required in the preparation of the socio-economic plan.

Both IPA and RRNA had vast experience in government and regional development planning in the United States and abroad, and the RRNA staff assigned to OTSP had extensive experience in the USTTPI. All consultant teams were resident in Saipan during the entire planning exercise, and their work was closely monitored and coordinated by the OTSP staff. It is noteworthy that, because the Joint Commission was adequately funded, OTSP was able to assemble a highly qualified staff, and its consultant teams consisted mostly of senior professionals who had for many years served as development policy and planning advisors to international agencies and governments throughout the world.

In conducting the Joint Commission's planning work, OTSP was particularly conscious of the political and institutional base in the Northern Marianas. It was conscious of requirements to provide sophisticated public services and infrastructure for a small, relatively unsophisticated and geographically isolated population. Services and infrastructure were required for each of the three main islands, Saipan, Rota and Tinian, and for the thinly populated group of small northern islands. Further, OTSP recognized that government organization, services and infrastructure development priorities and programs, would have to take account of local desires and expectations which were the products of pre-existing political institutions and a pre-existing governmental administrative structure.

For instance, prior to the Covenant, virtually all major services (utilities, education, health and community services, etc.), development programs (fisheries, agriculture, transportation, etc.) and basic infrastructure (roads, harbors, airports, etc.) had been the responsibility of, and funded and provided by, the United States administration. Municipal governments, established by the U.S. on each of the main islands to facilitate political development, were financed by meager self-generated local revenues and were responsible only for self-determined projects such as island "clean-up" and secondary road maintenance. In a very real sense, because of population size and dispersion, the municipal governments were redundant and an unnecessary expense in terms of service delivery, development programs and infrastructure development. Yet, these governments had been the only formal means by which local sentiments and concerns could be expressed to U.S. administrators, and they were of great importance to the people on each of the islands. It would have been impractical and politically naive for OTSP to plan a new government organization which did not include a vestige of the municipalities, at least initially.

By the same token, because of the limited capabilities of the small, mostly commercial, private sector, the United States administration, using government employees, had directly provided virtually all essential and most technical services for more than thirty years. United States administration resulted in an extremely large public sector which was the major employer of labor in the Northern Marianas. It also created public skepticism about private sector capabilities to provide services, and consumer reliance on public subsidy of essential services. Thus, OTSP recognized that the immediate transfer of responsibility for services from the public to the private sector would not be emotionally or politically acceptable or even practical, regardless of the desirability of such a transfer.

The planning approach to dealing with the inefficiencies associated with pre-existing political and socio-economic institutions and conditions was to program corrective changes over long enough periods to permit general education of the population, and to permit the changes to occur without major service disruptions and/or individual hardships. Therefore, explicit judgements were made not only as to requirements for changes in institutions and conditions, but also as to the time which would be required for changes to be implemented. While the development plans were ambitious, they reflected political and social realism. Thus, they provide reasonable quantitative standards against which the financial performance of the Commonwealth Government can be evaluated.

orrected to Reflect the Agreement of the
rincipals reached at Fourth Round of
egotiations, May 1974]

April 16, 1974

REPORT OF THE AD HOC PREPARATORY COMMITTEE ON TRANSITION IN THE MARIANAS

Introduction

During the Third Session on the future political status of the Marianas, the Chairman of the Marianas Political Status Commission (MPSC) and the President's Personal Representative for Micronesian Status Negotiations agreed that a joint Ad Hoc Preparatory Committee should be established to study and make recommendations regarding the scope, organization and timing of studies and programs necessary to an orderly transition to self-government in the Marianas. Agreed terms of reference for the Ad Hoc Committee are attached.

Pursuant thereto the Ad Hoc Committee has met and submits the following report to the Chairman of the MPSC and to the President's Personal Representative for Micronesian Status Negotiations.

GENERAL

Several discrete but interrelated steps are involved in creation of a self-governing Commonwealth of the Marianas. The first is a plebiscite to determine the future political status of the district. The second is a series of steps starting with the drafting of a constitution by a constitutional convention, followed by a constitutional referendum, the organization of a new government structure, the election of a new government and the drafting of an initial legislative program. The main responsibility for planning and implementing these latter activities should be borne by local leaders and institutions.

The Ad Hoc Committee is not able to make a firm estimate as to the time required to complete all of the tasks or activities mentioned in this report; it believes, however, that approximately two years is a reasonable timeframe.

In addition, there is a need for appropriate educational efforts to prepare the people so that they can participate in these activities or make an informed choice when a popular referendum or election is held.

It is also evident that if the new Commonwealth is to prosper, its leaders will require a sound plan for the social and economic development of the district, which takes into account all factors relevant to economic growth and social progress.

In this report the Committee presents its views and recommendations on the kinds of organizations, preparatory work and timing that will be required during the period preceding the installation of a new government, referred to as Phase I, plus a recommended budget.

ORGANIZATION

In order to ensure a timely and effective implementation of the necessary transition measures, the following organizations should be created immediately upon the signing of a status agreement.

A Joint Marianas-U.S. Commission on Transition

There is a joint responsibility for ensuring that the agreements reached on transitional steps are carried out as planned. In line with this the Committee recommends that a Joint Commission on Transition, an ex-officio body, be organized with the following members: the Chairman of the MPSC or its successor; the President of the District Legislature; two current or former members of the MPSC, one each from Tinian and Rota, appointed by the District Legislature; the Marianas District Administrator; the President's Personal Representative for Micronesian Status Negotiations; the Director, Office of Territorial Affairs, Department of the Interior; and up to two U.S. representatives to be designated.

The Commission should have two Co-Chairmen and meet on the call of either.

The main functions of the Commission should be:

1. To ensure that the terms of the status agreement and all related agreements on transition reached by the Marianas and the U.S. are faithfully executed;

2. To provide an institutionalized channel for close and timely consultation and liaison between the Mariana Islands and the U.S. Government on all significant transitional matters;

3. To formulate general guidelines for all necessary planning and research to be carried out during Phase I on matters of joint concern;

4. To provide policy guidance to the Joint Secretariat and perform whatever additional necessary functions it may decide are appropriate to the implementation of the Phase I program, e.g., to review studies or reports prepared by experts or the Secretariat.

A Transition Secretariat

To ensure that the general policy on transition and the specific guidelines of the Joint Commission are carried out, the Ad Hoc Committee recommends the creation of a full time "executive agent", a Transition Secretariat. This group would in essence be the "operating arm" of the Joint Commission.

It is our recommendation that this Secretariat be staffed by highly qualified professionals appointed by or approved by the Joint Commission, as follows:

1. A Director - preferably a citizen of the Marianas.
2. A Deputy Director, who would act as the Executive Officer - preferably a citizen of the United States.
3. A political scientist, ideally one who is expert in the field of public administration and constitutional law or state and local government.
4. An economist with substantial experience in dealing with problems of economic development.
5. A physical planner.
6. A liaison officer.

The Secretariat should be headquartered on Saipan and be fully responsible to the Joint Commission. It will also require a small clerical staff.

The Ad Hoc Committee recommends that the Joint Commission appoint the Director and Deputy Director of the Secretariat. The Director of the Secretariat would have the power to employ all but the Deputy Director, subject to the approval of the Joint Commission. He should also have the authority to let contracts or to hire expert consultants, within pertinent guidelines furnished by the Joint Commission.

Funds for salaries and other requisite support for the Secretariat should be provided by the U.S. Government through the Trust Territory Government.

Specific Functions or Responsibilities of the Secretariat

The primary role of the Secretariat would be to "manage" the study program approved by the Joint Commission and to ensure that all of the important steps toward the new political status, such as a constitutional convention, referendum, etc., are carried out on schedule; it should also:

1. Be responsible to the Joint Commission for planning, implementation and coordination of all agreed Phase I programs and activities falling under the Joint Commission's responsibility, i.e., serve as the staff arm of the Joint Commission;

2. Employ private firms or consultants as may be required to provide special advice or studies;

3. Administer all Phase I funds and provide quarterly progress reports to the Joint Commission on Phase I joint activities;

4. In addition, the Secretariat should be authorized to respond to requests from the Marianas representatives on the Joint Commission for assistance in the implementation of those transitional studies or activities which are principally the responsibility of the Marianas people.

In carrying out its responsibilities, the Secretariat should utilize to the extent available, the expert advice and services of personnel of the United States Government, the Trust Territory Government and the District Administration, and its political subdivisions.

WORK PLAN

There are two distinct kinds of activities needed to effect the transition to self-government and to initiate desired economic and social programs:

1. Research and planning activities; and
2. Specific or scheduled events and activities.

The first of these categories, research and planning, should include two major subdivisions:

a. Studies or planning needs to establish and organize the new government and its initial program; and

b. Studies or planning required in the economic and social area.

Government Organization Planning

The following main projects are needed in this area:

A. Studies and Planning for a Constitutional Convention

The MPSC should take the lead in this area, for it is the people of the Marianas who will have to live with the consequences of all planning and related events regarding this critical effort.

The Secretariat should provide all appropriate assistance.

B. Research and Planning Regarding the Organization of a New Government of the Marianas and its Initial Legislative Program

These tasks are also of primary concern to the MPSC and other political leaders of the district.

The principal requirement is to prepare a plan for the reorganization of the current system of government - a blueprint on how best to convert from the present governmental structure to that established by the new constitution.

This will require a careful and discriminating planning effort. Some select research plus expert advice will be required.

Preparatory work in planning for and drafting an initial legislative program should also begin during Phase I, although there should be ample time for the Secretariat to review this requirement during the initial months of Phase I. This project will mainly require experts skilled in drafting legislation needed to effect decisions on government reorganization and to get the new government off to a good start.

C. Studies Regarding the Retention or Extension of U.S. Programs and Services

It is the Ad Hoc Committee's view that the Secretariat should be instructed to ensure that a thorough review of all U.S. programs and services of potential value to the new Commonwealth of the Marianas be undertaken by experts during the early stage of Phase I.

Economic and Social Planning

Extensive economic and social infrastructure planning should be initiated during Phase I to enable the new government to determine its fundamental goals and policies in this area. Such planning will also facilitate agreement on the kinds of external aid or assistance most relevant to the needs of the Marianas in these areas within the annual levels of assistance provided in the status agreement.

limitations placed on development by the constraints of the environment - climate, soils, fresh water, manpower, etc. Therefore, the examination of already completed physical planning documents will be an early and integral part of the economic development study.

It is the Ad Hoc Committee's opinion that a substantial amount of useful planning has been done in the District. Full account should be taken of this by those charged with developing an overall, integrated plan. Once a general economic strategy begins to take shape, a follow-on study of physical infrastructure requirements will need to be undertaken. The purpose of that study would be the formulation of a time-phased plan of physical improvements essential to the furtherance of economic and social development of the Marianas. It would deal with such matters as urban housing, recreation, schools and hospitals, etc., in the area of social development, and roads, docks, power, water, transportation, etc., in the area of economic development infrastructure.

The Ad Hoc Committee recognizes that physical planning in addition to that for which funding is proposed in this Report will be required in the Marianas. It cannot be determined at this time, however, exactly how much additional physical planning may be necessary or desirable and when it would be most timely. The Ad Hoc Committee agrees, therefore, that the question of additional physical planning will be reexamined during Phase I by the Secretariat, subject to review by the Joint Commission, and that such additional funds as are necessary will be requested by the Executive Branch of the U.S. Government during either the latter part of Phase I or the initial stages of Phase II.

D. Special Impact Studies

There is an obvious need for early and effective planning efforts with respect to the following matters: (1) local impact of relocation of the capital of the TTPI; for example, the need to reassign of find alternative employment for displaced personnel; (2) the use of vacated facilities on Capitol Hill; and (3) programs needed to train or retrain government personnel in the Marianas.

Specific Events or Activities

Planning for the following discrete events or activities toward the realization of the new political status should begin early in Phase I and include:

The Secretariat should, as a matter of first priority, draw-up a more detailed time-phased work program covering Phase I.

PROPOSED BUDGET

The United States as the Administrating Authority will be responsible for funding all Phase I activities, including the expenditure of any U.S. funds on agreed studies or projects. Therefore, the U.S. contribution to any of the above tasks, whether in the form of grants or payments to cover the administrative costs of the Joint Commission or the Secretariat, must be funneled through agents or agencies designated by the U.S., such as the Headquarters of the Trust Territory Government. For example, funds for the preparatory work and holding of the constitutional convention should be in the form of direct grants from the U.S. through the designated agency of the Trust Territory Government to the District Legislature. Conversely, U.S. funds for the support of the Secretariat or for physical planning should pass through the Trust Territory Government to the Secretariat for appropriate disbursement.

The proposed budget does not include the significant contributions already made or which will be devoted by the Trust Territory Government to projects or activities that should also be viewed as an integral part of transition to self-government, e.g., infrastructure projects, and the land cadaster program.

With regard to the latter, the cadaster program, it should be kept in mind that the U.S. is committed to complete a public land cadaster program within three years. Funds for this program were included either in the Fiscal Year 1974 supplemental budget or are being requested as part of the Fiscal Year 1975 budget for Micronesia. If additional funds are required to meet this commitment more money will be requested. The District Administration is responsible for the implementation of this program and is already organizing for this task. Therefore, the amount proposed earlier by the MPSC for this purpose is not included in the attached draft budget estimate. If they were, the total would increase by approximately $1.6 million - the current estimated cost of the three year program for the Marianas District.

Moreover, the attached budget estimate does not reflect the considerable work which the Trust Territory Administration intends to perform in the District in the areas of physical planning, public works, agriculture, education, etc., during Phase I and II. In this regard, there has recently been a considerable upgrading of the planning effort at the district level. Supporting work by appropriate sections of the District Administration in such areas as physical planning will continue until the Trusteeship ends. Thus, the indirect contribution of these efforts to Phase I planning should be recognized by all concerned.

The need for the training of additional public servants and technicians is well recognized and will doubtless receive priority attention by the leaders of the Marianas and the U.S. Administration during the transitional period. In fact, the Department of the Interior has already initiated an intern program in this area. Therefore, funds for this are not included in the attached budget estimates.

The suggested allocations which follow should be viewed as tentative and subject to transfer to related tasks in accordance with agreed guidelines from the Joint Commission or recommendations of the Secretariat. A high degree of flexibility within broad functional divisions will be required in the interest of good managment and timing.

It should also be recognized that additional funds for research or studies not yet identified or to augment agreed planning tasks may be required during Phase I. The U.S. is prepared to meet the costs of additional research or studies judged necessary to complete the agreed planning tasks, to include those which may need to be extended into Phase II.

The costs of administration are annual and will continue as necessary until the agreed tasks are completed. Budget estimates for research and planning and scheduled transitional steps are "no year" funds - i.e., they should be sufficient to complete the task or activity. As mentioned above, some additional funds for new or expanded work may be needed. It should be recognized, however, that all proposed U.S. expenditures are subject to Congressional approval and the availability of funds.

RECOMMENDED PHASE I BUDGET

Administration	
Joint Commission	$ 20,000
Secretariat	$230,000
Contingencies	$ 10,000
Sub-Total- - - - -	$260,000
Research and Planning	
Government Organization	
Studies and Planning Constitutional Convention	$ 50,000
Research and Planning Government Reorganization	$ 50,000
Initial Legislative Program	$ 50,000
Research U.S. Federal Programs and Services	$ 50,000
Sub-Total- - - - -	$200,000
Economic and Social Planning	
Economic and Social Development Planning	$225,000
Fiscal and Revenue Planning	$ 50,000
Physical Planning	$225,000
Impact Relocation of Capital	$ 50,000
Sub-Total- - - - -	$550,000
Schedule Transition Steps	
Political Status Education Program & Status Plebiscite	$ 50,000
Constitutional Convention	$ 75,000
Constitutional education program and constitutional referendum	$ 50,000
Election new Government	$ 25,000
Sub-Total- - - - -	$200,000
GRAND TOTAL- -	$1,210,000

ATTACHMENT - Terms of Reference for Special Ad Hoc Committee

APPENDIX B

OPERATIONS DETAIL FOR THE LEGISLATIVE, JUDICIAL AND EXECUTIVE BRANCHES OF GOVERNMENT, FY 1981-1984

APPENDIX C

OPERATIVE REVENUES AND EXPENDITURES OF ELECTRIC POWER SERVICES AND HEALTH SERVICES, FY 1981-1984

APPENDIX D

LEGISLATIVE APPROPRIATIONS AND ADMINISTRATIVE ALLOTMENTS FOR CAPITAL IMPROVEMENT PROJECTS, FY 1978-1984

2. Tinian		
a. Proc. of Agricultural & Operating Equip.	$ 35,000	
b. Improvement of Irrigation System	25,000	
c. Proc. of Equip. & Parts	50,000	
d. Reno. of Social Hall	87,900	
e. Homestead Infrastructure - Turnkey	500,000	
f. Power Dist. System	130,000	
g. Water Dist. System	500,000	
h. Road & Drainage Improvements	200,000	
i. Proc. of Rock Crusher	150,000	
j. Proc. of Heavy Equip. & Parts	70,000	
Subtotal	$ 1,747,900	
3. Rota		
a. Hill-Burton Dispensary	$ 451,000	
b. General Appropriation	2,250,000	
1. Airport Road Phase II		
2. Other Public & Access Roads		
3. Planning, Design, Construction of Public Safety & Fire Station		
4. Other Projects Deem Appropriate by the Governor		
Subtotal	$ 2,701,000	
Total Public Law No. 3-100		$ 7,921,000
C. TOTAL APPROPRIATION FOR FY 1984		$ 7,921,000
D. OVER-APPROPRIATION		$ 2,000

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

STATEMENTS OF GOVERNMENT OPERATIONS EXPENDITURES

LEGISLATIVE BRANCH

FISCAL YEARS 1981 TO 1984

	TOTAL	1981	1982	1983	1984
PERSONNEL SERVICES	$8,122,343	$1,426,245	$1,701,212	$2,276,138	$2,718,748
PERSONNEL BENEFITS	414,122	73,395	87,591	115,272	137,864
TOTAL PERSONNEL EXPENDITURES	8,536,465	1,499,640	1,788,803	2,391,410	2,856,612
TRAVEL	550,206	99,782	103,840	174,875	171,709
EQUIPMENT RENTAL	117,364	30,197	19,846	30,108	37,213
PROFESSIONAL SERVICES	416,470	19,818	93,828	82,207	220,617
CAPITAL OUTLAY	182,939	6,487	38,836	54,403	83,213
MISCELLANEOUS	1,956,065	233,001	466,585	524,201	732,278
TOTAL NON-PERSONNEL EXPENDITURES	3,223,044	389,285	722,935	865,794	1,245,030
TOTAL	$11,759,509	$1,888,925	$2,511,738	$3,257,204	$4,101,642

NOTE: Legislative branch operating expenditure data for fiscal years 1978 to 1980 are not readily available.

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

STATEMENTS OF GOVERNMENT OPERATIONS EXPENDITURES

EXECUTIVE BRANCH

FISCAL YEARS 1981 TO 1984

	TOTAL	1981	1982	1983	1984
PERSONNEL SERVICES	$ 61,640,729	$11,762,306	$13,689,493	$17,307,057	$18,881,873
PERSONNEL BENEFITS	16,050,243	3,396,015	2,393,935	5,073,524	5,186,769
TOTAL PERSONNEL EXPENDITURES	77,690,972	15,158,321	16,083,428	22,380,581	24,068,642
TRAVEL	4,297,777	876,136	1,431,390	1,257,672	732,579
EQUIPMENT RENTAL	471,959	132,066	132,061	105,646	102,186
PROFESSIONAL SERVICES	5,718,281	500,650	1,027,067	2,143,802	2,046,762
CAPITAL OUTLAY	768,160	62,417	135,996	230,319	339,428
MISCELLANEOUS	38,531,161	8,702,539	9,748,500	9,380,811	10,699,311
TOTAL NON-PERSONNEL EXPENDITURES	49,787,338	10,273,808	12,475,014	13,118,250	13,920,266
TOTAL	$127,478,310	$25,432,129	$28,558,442	$35,498,831	$37,988,908

Note: Executive branch operating expenditure data for fiscal years 1978 to 1980 are readily available.

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

STATEMENTS OF UTILITY OPERATIONS

FISCAL YEARS 1981 TO 1984

	TOTAL	1981	1982	1983	1984
VENUE:					
Power Service Revenue	$ 9,395,976	$ 1,372,400	$ 2,122,300	$ 3,389,560	$ 2,511,716
Water Service Revenue	355,921	59,000	139,200	68,983	88,738
TOTAL UTILITY REVENUE	9,751,897	1,431,400	2,261,500	3,458,543	2,600,454
XPENDITURES:					
Fuel	24,915,979	5,757,416	6,168,269	6,316,608	6,673,686
Personnel and Others	2,882,568	599,849	630,351	759,019	893,349
TOTAL UTILITY EXPENDITURES	27,798,547	6,357,265	6,798,620	7,075,627	7,567,035
XCESS REVENUE OVER (UNDER) EXPENDITURES	$(18,046,650)	$(4,925,865)	$(4,537,120)	$(3,619,084)	$(4,966,581)

TE: Utility revenue and expenditure data
for fiscal years 1978 to 1980 are
not readily available

FY 1983 CAPITAL IMPROVEMENT PROGRAMS

A. RESOURCES AVAILABLE

Base Appropriation	$ 6,898,000
Supplemental Appropriation	914,000
Total Funding	$ 7,812,000

B. APPROPRIATION - PUBLIC LAW No. 3-31

1. Saipan

a.	Permanent Power Plant	$ 526,679
b.	P.P.P. Fourth Generator	779,421
c.	Proc. of Agric. Equip. Parts & Accessories	100,000
d.	Improv. of Water Dist. System - South San Vicente	200,000
e.	Permanent Power Plant - Deferred Payment	507,221
f.	Permanent Power Plant - Fourth Generator	1,304,779
	Subtotal	$3,418,100

2. Tinian

a.	Water Distribution	$ 400,000
b.	Proc. of Power Gen. Parts & Accessories	400,000
c.	Power Distribution/Generation	147,000
d.	Proc. of Heavy Equip. Parts & Accessories	50,000
e.	Construction of Storage Facility	75,000
f.	Proc. of Equip.-Office of the Mayor	60,000
g.	Proc. of Equip. & Emergency Gen. - Public Health	75,000
h.	Proc. of School Bus	45,000
i.	Proc. of Water Truck	50,000
j.	Construction of Piggery	10,000
k.	Reno. of Office Space & Pesticide Storage	10,000
l.	Const. of Equip. & Maintainance Building	75,000
m.	Proc. of Equip. - Public Safety	3,000
	Subtotal	$1,400,000

3. Rota

West Harbor Development	$1,576,000
Subtotal	$1,576,000

Total Public Law No. 3-31		$ 6,394,100

APPROPRIATION - PUBLIC LAW No. 3-55

1. Saipan		
a. USGS Water Resources Matching	$ 12,500	
b. Tanapag Elementary School Auditorium	176,000	
c. Proc. of Generator Parts	250,000	
d. Power Emergency	100,000	
e. Water Emergency	300,000	
f. Water Emergency	279,400	
Subtotal	$1,117,900	
2. Tinian		
a. Proc. of Fire Truck	$ 100,000	
Subtotal	$ 100,000	
3. Rota		
a. Proc. of School Bus & Reno. of School Bldg.	$ 200,000	
Subtotal	$ 200,000	
Total Public Law No. 3-55		$ 1,417,900
D. TOTAL APPROPRIATION FOR FY 1983		$ 7,812,000

FY 1982 CAPITAL IMPROVEMENT PROGRAMS

A. RESOURCES AVAILABLE

Base Appropriation	$	6,412,000
Supplemental Appropriation		970,000
Prior Year Carry Over		1,740,000
Direct Grant for New Hospital A/E		1,296,000
Total Funding	$	10,418,000

B. APPROPRIATION - PUBLIC LAW No. 3-2

1. Saipan

a. New Hospital - A/E Change Order	$	92,040		
b. New Hospital - Certificate of Need		9,500		
c. Senate Building Extension		50,000		
Subtotal	$	151,540		

2. Tinian

a. Hill-Burton Dispensary Matching	$	37,024		
Subtotal	$	37,024		

3. Rota

a. Hill-Burton Dispensary Matching	$	40,510		
b. Harbor Improvement Phase II		609,000		
Subtotal	$	649,610		
Total Public Law No. 3-2			$	838,174

C. APPROPRIATION - PUBLIC LAW No. 3-3

1. Saipan

a. Koblerville Section 8 Housing	$	1 800,000		
Subtotal	$	1,800,000		

2. Tinian

Subtotal	$	-0-		

3. Rota

a. Airport Road Phase I	$	2,000,000		
Subtotal	$	2,000,000		
Total Public Law No. 3-3				3,800,000

D. APPROPRIATION - PUBLIC LAW No. 3-21

1. Saipan

a.	Emergency Traffic Signal	$ 10,000	
b.	New Hospital - A/E & CM	1,642,560	
c.	Achugao Bridge - A/E	20,000	
d.	Extension of Power Dist. System	175,000	
e.	Const. Chalan Kanoa Dist. 2 Community Hall	70,000	
f.	Procurement of Street Lights and Accessories	37,000	
g.	Improvement of Water Dist. System	281,010	
h.	Reno. and Extension of Government Bldg.	130,000	
i.	Proc. of Collateral Equip. for Correctional Fac.	16,000	
j.	Const. of Garapan Police/Fire Substation	100,000	
k.	Perimeter Fencing for Tanapag Elem. Sch.	20,000	
l.	Reno. of Classrooms and Proc. of Collateral Equip.	294,988	
m.	Purchase of Equip. & Access. for Parks & Rec.	30,000	
n.	Extension of Senate Building	13,000	
o.	Sewer System Matching	208,000	
p.	Power Plant Engine Overhaul	100,000	
r.	Power Plant Installment	1,111,878	
	Subtotal	$ 4,259,436	

2. Tinian

a.	Improvement of Water Dist. System	$ 492,400	
b.	A/E for New Power Plant Bldg.	113,000	
c.	A/E & Proc. of Equip. for Sanitary Land Fill	112,000	
d.	Const. & Reno. of Classrooms	150,990	
e.	Improvement of Roads and Drainage System	29,000	
f.	Proc. of Recreational Equip.	23,000	
g.	Proc. of Water Pump Equip. & Const. of Shelter	49,000	
	Subtotal	$ 969,390	

3. Rota

a.	Const. of Senior Citizen Fac.	$ 70,000	
b.	Proc. of Fire Truck	86,000	
c.	Const. Rota High School Phase II	380,000	
e.	Proc. of Police Vehicles and Coll. Equip.	15,000	
	Subtotal	$ 551,000	
	Total Public Law No. 3-21		$ 5,779,826

E.	TOTAL APPROPRIATION FOR FY 1982	$ 10,418,000

2. Tinian

a. Proc. Dental & Medical Equip.	$ 15,000	
b. Const. & Reno. Elem. Classroom	120,000	
c. Proc. Parks & Recreation Equip.	14,000	
d. Proc. Fire Truck & Collaterial Equip.	100,000	
e. Const. Senior Citizen Bldg.	130,000	
f. Proc. Operating Equip. & Vehicles	12,000	
g. Const. Secondary Road	613,000	
Subtotal	$ 1,004,000	

3. Rota

None

4. Northern Islands

None

Total Allotments		$ 6,782,000
C. TOTAL ALLOTMENTS FOR FY 1981		$ 6,782,000
D. UNALLOTED FUNDS		$ 195,000

FY 1980 CAPITAL IMPROVEMENT PROGRAMS

A. RESOURCES AVAILABLE

Base Appropriation	$ 5,373,000
Supplemental Appropriation	948,000
Direct Grant for Permanent Power Plant	5,000,000
Total Funding	$ 11,321,000

B. APPROPRIATION - PUBLIC LAW No. 2-1

1. Saipan

a.	Public Health Fac. Improvements	$ 90,000
b.	Dental Equipment	20,000
c.	Proc. Medical Equip.	50,000
d.	Animal Control Fac. & Equip.	15,000
e.	Elementary Classrooms A/E & Const.	65,000
f.	A/E & Const. Junior High School	510,000
g.	MHS Vocational Bldg. Reno.	80,000
h.	School Buses Accessories/Bus Stop Shelters	170,000
i.	Reno. Central Education Office	20,000
j.	Elementary Restroom Reno.	40,000
k.	Headstarts Fac. Improvements	40,000
l.	Schools Water Fountain	10,000
m.	MHS Library & Administration Bldg.	120,000
n.	MHS Science Classroom	120,000
o.	Tanapag Elementary Sch. Auditorium	60,000
p.	A/E & Const. Kagman Station Fac.	20,000
q.	A/E Slaughter House	5,000
r.	Agricultural Machinery	60,000
s.	Crop Development & Promotion	60,000
t.	Operating Equip. - DNR	28,000
u.	Agriculture Equip./Fac. Improvements	10,000
v.	Fishing Facilities Improvements	10,000
w.	Pro. Parks & Recreation Equip.	50,000
x.	Parks & Ground Development	70,000
y.	Small Livestock Development	50,000
z.	Irrigation Development	35,000
a.	Agriculture Lab. - Reno. & Equip.	75,000
b.	Repair of Owol & Proc. of Equip.	60,000
c.	Operating Equip. - Public Safety	25,000
d.	Proc. Fire Truck	80,000
e.	A/E & Const. Garapan Police & Fire Station	15,000
f.	Community Recreation Fac.	80,000
g.	Historic Preservation	20,000
h.	Chalan Kanoa Elem. Sch. Baseball Field/Backstop Improvements	10,000
i.	Acquisition & Reno. Meeting Hall - CK	32,000
j.	Garapan Community Hall	18,000

Table 13: GCNMI: Comparison of CNMI Consumer Price Index and the Federal Gross National Product Implicit Price Deflator, 1979-1984

	GNPIPD	Percent Change	CNMI CPI	Percent Change
1979 3rd quarter	167.14	Base	118.0	Base
1980 3rd quarter	181.67	+ 8.7	127.9	+ 8.4
1981 3rd quarter	195.33	+ 16.9	155.7	+ 31.9
1982 3rd quarter	208.38	+ 24.5	173.4	+ 46.9
1983 3rd quarter	216.37	+ 29.5	193.5	+ 63.9
1984 3rd quarter	224.44	+ 34.3	199.1	+ 68.7

Source: U.S. Department of Commerce and GCNMI

FY 1981 CAPITAL IMPROVEMENT PROGRAMS

A. RESOURCES AVAILABLE

Base Appropriation	$	5,847,000
Supplemental Appropriation		1.130,000
Total Funding	$	6,977,000

B. APPROPRIATION - NONE - BY ALLOTMENT ONLY

1. Saipan

a.	New Hospital	$	116,600
b.	Proc. Film for Public Health		44,800
c.	Const. MHS Science Classroom		30,000
d.	Const. MHS Library & Admin. Bldg.		40,000
e.	Const. Tanapag Elem. Sch. Aud.		120,000
f.	Const. Fishery Complex		42,000
g.	Agriculture Slaughter House		30,000
h.	Expansion Kagman Irrigation		50,000
i.	Proc. Police Vehicles & Equip.		13,200
j.	Reno. Police & Fire Station		2,800
k.	Reno. Meeting Hall - C.K.D.3		10,000
l.	Reno. Historical Sites		50,000
m.	Const. Baseball Field Fencing		20,000
n.	Permanent Power Plant		3,030,000
o.	Power Barge Impedance		256,000
p.	Overhaul of Power Plant		100,000
q.	Distribution & Extension of Power		254,300
r.	Primary Roads		300,000
s.	Sewer System Expansion		390,000
t.	House Ext., Reno., Collateral Equip.		60,000
u.	Reno. Government Quarters		6,300
v.	A/E & Const. GSA Federal Bldg.		350,000
w.	Reno. TT Government Property		25,000
x.	Proc. Equip. For Typhoon Shelters		10,000
y.	Multi-Purpose Recreational Facility		32,000
z.	Proc. Heavy Equip. & Parts		370,000
a.	Proc. Operating Equip. & Vehicles		25,000
	Subtotal	$	5,778,000

k. Housing Assistance	$	200,000
l. Village Homestead Infrastructure		100,000
m. Power Transmission - New Power Plant		421,000
n. Power Dist./Extension		520,000
o. Water System Development		922,000
p. San Roque Water Improvements		45,000
q. Sanitations Trucks & Tractors		77,000
r. A/E & Const. Village Road		80,000
s. Texas Road By-pass Improvements		45,000
t. Rehab./Const. Tanapag Bridge & Culvert		50,000
u. Sewer System Development - Match		150,000
v. New Solid Waste Site Development		100,000
w. A/E Charlie Dock Improvements		310,000
x. Recreational Street Lights & Lighting Equip.		170,000
y. Operating Equip. & Parts		100,000
z. Mayor & Carolinian Affairs Office Reno.		10,000
a. Senate Ext., Reno., Coll. & Operating Equip.		50,000
b. House Ext., Reno., Coll. & Operating Equip.		60,000
c. Radio Purchase & Replacement		100,000
d. Operating Equip. - Governor's Office		15,000
e. Reno. Office Space - Governor's Office		30,000
Subtotal	$	5,778,000

2. Tinian

a. Hill-Burton Dispensary - Match	$	25,000
b. Kitchen Facilities		70,000
c. Proc. School Bus		10,000
d. Agricultural Machinery		80,000
e. Parks & Ground Development		20,000
f. Parks & Recreation Equip.		5,000
g. Power Distribution		30,000
h. Water Distribution - EDA Match		40,000
i. Water System Development		209,000
j. A/E & Const. Village Roads		370,000
k. A/E & Const. Civic Center		65,000
l. Heavy Equip. - Public Works		80,000
Subtotal	$	1,004,000

3. Rota

a. Hospital Beds Replacement & AC Units	$	
b. Const. Kitchen Fac.		
c. High School Relocation		
d. Proc. School Bus		
e. Agricultural Machinery/Operating Equip.		
f. Water Transmission/Dist. System - Agri., Res.		
g. Parks & Ground Dev. - Tewskbury Beach		
h. Multi-Purpose Community Center		
i. Senior Citizen Bldg.		

j. A/E & Const. Primary Road	$		
k. A/E Dock Facilities			
l. Development Plan - New Sinapalo Village			
Subtotal - Entire Programs Vetoed	$		
4. Northern Islands			
a. A/E & Const. Power Dist.	$	25,000	
b. A/E & Const. Power Generation		55,000	
c. Proc. Boat & Motor		20,000	
d. Proc. Ground Maintenance Equip.		22,000	
Subtotal	$	122,000	
Total Public Law No. 2-1			$ 6,904,000
C. TOTAL APPROPRIATION FOR FY 1980			$ 6,904,000
D. UNAPPROPRIATED FUNDS			$ 4,417,000
a. Funds Reserved For Rota	$	1,545,000	
b. Funds Spent on New Power Plant		2,872,000	

FY 1979 CAPITAL IMPROVEMENT PROGRAMS

A. RESOURCES AVAILABLE

Base Appropriation	$ 4,832,000
Supplemental Appropriation	947,000
Total Funding	$ 5,779,000

B. APPROPRIATION - PUBLIC LAW No. 1-34

1. Saipan

a.	Operating Equip. - Judiciary	$ 16,000
b.	Operating Equip. - Office of the Governor	10,000
c.	Operating Equip. - Staff Agencies	10,000
d.	Operating Equip. - Commerce & Labor	4,000
e.	Proc. of School Buses	172,000
f.	A/E & Const. Elementary Classrooms	270,000
g.	A/E & Const. MHS Library & Adm. Bldg.	120,000
h.	A/E & Const. MHS Science Classroom	120,000
i.	A/E & Const. Junior High School	350,000
j.	A/E & Const. Tanapag Elementary Sch. Aud.	60,000
k.	A/E & Const. Correctional Facility	585,000
l.	Operating Equip. - Health & Enviro. Services	100,000
m.	A/E & Const. Village Dispensaries	100,000
n.	A/E & Const. Dental Facilities	50,000
o.	A/E & Const. Kagman Station Facilities	35,000
p.	Small Livestock Development	45,000
q.	Goat Development	8,000
r.	Irrigation Development	35,000
s.	Agriculture Laboratory	75,000
t.	A/E & Const. Fishing Complex	155,000
u.	Operating Equip. & Vehicle - DNR	6,000
v.	A/E & Const. Recreational Facilities	45,000
w.	Historic Preservation	20,000
x.	Village Homestead Infrastructure	150,000
y.	Village/Agricultural Homestead Survey	90,000
z.	Water System Development	300,000
a.	San Roque Water Dist. - EDA Match	42,000
b.	Sewer System Development - EPA Match	150,000
c.	A/E & Const. Beach Road - FHWA Match	108,000
d.	A/E & Const. Village Road	200,000
e.	A/E & Const. San Roque Drainage System	65,000
f.	As Teo & Kagman Water Extension - A/E & Const.	70,000
g.	Dan Dan & As Perdido Street Lights	25,000
h.	San Vicente Waterline	51,000
i.	A/E & Const. Charlie Dock Repair	50,000
j.	A/E & Const. Garapan Community Hall	75,000
	Subtotal	$ 3,767,000

2. Tinian

a.	Dispensary Medical Equip.	$ 5,000
b.	Emergency Generator	4,000
c.	Proc. School Bus	15,000
d.	School Ground Improvement	30,000
e.	A/E of School Library	7,000
f.	A/E of School Gymnasium	10,000
g.	Proc. of Playground Equip.	10,000
h.	Agriculture Cold Storage Facility	30,000
i.	Agriculture Equipment	25,000
j.	Multi-Purpose Recreational Facilities	20,000
k.	Historic Preservation	5,000
l.	Village Homestead Infrastructure	75,000
m.	Village/Agricultural Homestead Survey	30,000
n.	Power Dist. - A/E & Const.	90,000
o.	A/E & Const. Water Dist.	31,000
p.	A/E & Const. Village Road	166,000
q.	A/E & Const. Civic Center	125,000
r.	Proc. Public Works Heavy Equip.	100,000
s.	Operating Equip. - Immigration & Nat.	6,000
t.	Operating Equip. - Finance	6,000
u.	Operating Equip. - Economic Development	6,000
v.	Operating Equip. - Sanitation	6,000
w.	Operating Equip. - Public Safety	6,000
	Subtotal	$ 808,000

3. Rota

a.	Proc. School Bus	$ 15,000
b.	Relocation of High School	380,000
c.	School Ground Improvement	10,000
d.	Multi-Purpose Community Center	60,000
e.	Jailhouse Reno./Extension	40,000
f.	Water Transmission/Dist.- Agri., Res.	175,000
g.	Parks & Grounds - Tewskbury's Beach	10,000
h.	Power Distribution	50,000
i.	One Million Gallon Water Storage Tank	54,000
j.	A/E & Const. Airport Road	200,000
k.	West Harbor Development	50,000
l.	Operating Equip. - P.W. Heavy Equip.	93,000
m.	Operating Equip. - Immigration/Nat.	6,000
n.	Operating Equip. - Agriculture	6,000
o.	Village/Agriculture Homestead Survey	30,000
	Subtotal	$ 1,179,000

4. Northern Islands

a.	Village/Agriculture Homestead Survey	$ 75,000
b.	Proc./Const. Water Tanks	50,000
c.	Proc. Road Equip.	30,000
	Subtotal	$ 155,000

Total Public Law No. 1-34	$ 5,909,000
C. TOTAL APPROPRIATION FOR FY 1979	$ 5,909,000
D. OVER APPROPRIATION	130,000

FY 1978 CAPITAL IMPROVEMENT PROGRAMS

A. RESOURCES AVAILABLE

Base Appropriation	$	3,933,000
Supplemental Appropriation		674,000
Total Funding	$	4,607,000

B. APPROPRIATION - NONE - BY ALLOTMENT ONLY

1. Saipan

a.	Saipan Elementary Classrooms	$	335,000
b.	A/E & Const. Jr. High School		75,000
c.	School Renovation		240,000
d.	A/E & Const. Wallace Highway		270,000
e.	Road Building Equipment		100,000
f.	Agriculture Equipment		45,000
g.	American Memorial Park		50,000
h.	A/E & Const. Fishing Center		50,000
i.	A/E & Const. NMI Correction Fac.		40,000
j.	Fire Equipment		25,000
k.	Governor's House Renovation		50,000
l.	Power Generation		151,000
m.	Saipan Deepwell Water Supply		89,000
n.	Water Meter Project		10,000
o.	Water Distribution		218,000
p.	Sewer System Expansion		91,000
q.	Solid Waste Equip. & Disposal Site		266,000
r.	P. W. Operating Equip. & Vehicles		38,000
s.	P. W. Proc. Equip. & Vehicles Parts		52,000
t.	Proc. Centralized Equip. & Vehicles		255,000
u.	Village Homestead Infrastructure		150,000
	Subtotal	$	2,600,000

2. Tinian

a.	Dispensary	$	105,000
b.	Elementary School		80,000
c.	Home Arts Facility		30,000
d.	School Renovation		35,000
e.	Agriculture Equipment		40,000
f.	Irrigation Expansion		30,000
g.	Dev. Parks & Public Ground		10,000
h.	Power Generation		250,000
i.	Power Distribution		86,000
j.	Water System Improvement		51,000

	k. Public Bldg. Reno.	$ 10,000	
	l. Civic Center	10,000	
	m. Village Homestead Infrastructure	45,000	
	Subtotal	$ 782,000	
3.	Rota		
	a. Dispensary	$ 75,000	
	b. A/E Relocation High School	40,000	
	c. School Renovation	50,000	
	d. Rural Road	25,000	
	e. Airport Road	75,000	
	f. West Harbor Development	760,000	
	g. Agriculture Equipment	40,000	
	h. Irrigation Development	40,000	
	i. Dev. Parks & Public Ground	10,000	
	j. Water System Improvement	50,000	
	k. Public Bldg. Reno.	10,000	
	Subtotal	$ 1,175,000	
4.	Northern Islands		
	a. Pagan Power Generation	$ 50,000	
	Subtotal	$ 50,000	
	Total Allotments		$ 4,607,000
C.	TOTAL ALLOTMENTS FOR FY 1978		$ 5,112,000
D.	REPROGRAMMED FROM PRIOR YEARS (N6092102)		505,000
	1. Rota Power Generation/Distribution	$ 250,000	
	2. Saipan Projects		
	a. Governor's House Reno.	20,000	
	b. Sewer Design	45,000	
	c. Emergency Drainage Design & Const.	130,000	
	d. P.W. Operating Equip. & Vehicles	60,000	

APPENDIX E

AGREEMENT BY THE SPECIAL REPRESENTATIVES ON FUTURE UNITED STATES FINANCIAL ASSISTANCE FOR THE NORTHERN MARIANA ISLANDS

AGREEMENT OF THE SPECIAL REPRESENTATIVES
ON
FUTURE UNITED STATES FINANCIAL ASSISTANCE FOR THE NORTHERN MARIANA ISLANDS

WHEREAS, under the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (Covenant) the peoples of the Northern Mariana Islands and the United States of America desire to improve their mutually beneficial relationship, and to develop the economic resources referenced in Section 701 needed to meet the financial responsibilities of local self-government in the Northern Mariana Islands; and

WHEREAS, the guaranteed annual levels of direct grant assistance will expire at the end of fiscal year 1985; and

WHEREAS, Section 704(d) of the Covenant provides that the Congress may appropriate different amounts at the end of the seven-year period of guaranteed annual direct grant assistance provided by Section 702 of the Covenant; and

WHEREAS, the Covenant provides for the appointment of special representatives of the two governments to consider and make recommendations regarding future multi-year financial assistance to the Government of the Northern Mariana Islands; and

WHEREAS, President Ronald Reagan and Governor Pedro P. Tenorio appointed such special representatives who have considered such United States future financial assistance;

NOW, THEREFORE, we, Richard T. Montoya, special representative for the President of the United States, and Pedro A. Tenorio, Benjamin T. Manglona, Gregorio C. Sablan, and Ignacio K. Quichocho, special representatives of the Governor of the Northern Mariana Islands, agree as follows:

PART I. POLICY STATEMENT

The Government of the United States and the Government of the Northern Mariana Islands mutually agree that the people of the Northern Mariana Islands will be best served by promoting economic development, lessening dependence on Federal financial assistance for government operations, and reducing the size of government, including the executive and legislative branches. Priority shall be given to maximizing capital development through the use of public and private financing techniques. The Government of the United States recognizes recent significant efforts and the future commitment on the part of the Government of the Northern Mariana Islands to achieve these objectives.

This document affirms the mutual commitment of the Government of the United States and the Government of the Northern Mariana Islands to these goals.

PART II. FUNDING

1. Full Faith and Credit. After approval of this Agreement by the Congress and the President of the United States, payments under this second multi-year financial assistance agreement shall be accorded the full faith and credit of the United States, except that the full faith

and credit for the payment of government operations funds shall be subject to the performance standards (paragraph 4 of this Part) and settlement of disputes provisions (paragraph 2 of Part III) contained in this agreement.

2. Schedule of Payments. The Government of the United States shall provide the Government of the Northern Mariana Islands $228 million over a seven-year period, beginning October 1, 1985, and ending September 30, 1992, to be appropriated according to the following schedule:

Fiscal Year	Capital Development	Government Operations	Special Programs	Total
1986	$ 8,466,000	$ 17,760,000	$1,500,000	$ 27,726,000
1987	18,294,000	17,050,000	--	35,344,000
1988	18,000,000	16,360,000	--	34,360,000
1989	25,150,000	15,000,000	--	40,150,000
1990	20,850,000	13,000,000	--	33,850,000
1991	17,850,000	11,000,000	--	28,850,000
1992	17,390,000	10,330,000	--	27,720,000
Totals	$126,000,000	$100,500,000	$1,500,000	$228,000,000

When appropriated, funds shall be granted annually by the Department of the Interior according to such regulations as are applicable to such grants. All previous funds granted under Section 702 of the Covenant remain subject to the provisions and restrictions under which they were granted.

3. Capital Development.

a) The Government of the Northern Mariana Islands shall develop a seven-year strategic plan for capital improvement projects and economic development activities. At a minimum, eighty percent of the annual capital development funds identified in the schedule of payments (paragraph 2 of this Part) shall be obligated and expended in accordance with such plan that shall provide for essential infrastructure through capital improvement projects in the areas of power, water, sewers, roads, schools, ports and harbors, and public facilities. The balance, not to exceed a maximum of twenty percent of such annual capital development funds, shall be obligated and expended in accordance with the provisions of such plan that shall provide for economic development activities. Such plan and amendments thereto shall be submitted in accordance with Northern Mariana Islands law and mutually agreed upon by the Government of the Northern Mariana Islands and the Secretary of the Interior, or his designee. The plan shall be project specific with sufficient detail to perform cost/benefit analyses and develop financing strategies and alternatives. The Government of the Northern Mariana Islands shall establish a revolving fund, into which repayments of principal and interest from revenue-producing projects shall be deposited for financing of additional revenue-producing capital development projects. Interest earned on capital development funds before such funds are expended shall be treated as capital development funds; interest earned on moneys in the revolving fund shall become part of the revolving fund.

b) The payment of federally appropriated funds, backed by the full faith and credit of the United States, may be applied or directed by the Government of the Northern Mariana Islands (but such an application or direction by the Government of the Northern Mariana Islands shall not be a guarantee of payment by the United States, either directly or indrectly) for the repayment of debt instruments issued by the Government of the Northern Mariana Islands for capital development funds.

c) The islands of Rota and Tinian shall each receive no less than a 1/8 share and the island of Saipan shall receive no less than a 2/8 share of annualized capital improvement project funds which shall be no less than 80% of the capital development funds identified in the Schedule of Payments in paragraph 2 of this Part.

4. Government Operations. The full faith and credit of the United States for the payment of government operations funds shall be subject to fulfillment of the following performance standards during the entire seven-year period:

a) The Government of the United States shall provide $100.5 million in operations funds over the seven-year period in the annual amounts set forth in the schedule of payments. These annual funds shall be provided according to a separate payment schedule developed by the Government of the Northern Mariana Islands consistent with Federal regulations.

b) The Government of the United States, through its designee, subject to the availability of funds, and at the request of and in cooperation with the Government of the Northern Mariana Islands, shall provide technical assistance, including but not limited to the following purposes: (i) the development and operation of a financial management system, (ii) the development of a plan for the transfer to the private sector by the Government of the Northern Mariana Islands of those functions that can be privately owned and operated, (iii) the promotion of government efficiency, (iv) the improvement of Northern Mariana Islands business development capability, (v) the promotion of business development and marketing by the Government of the Northern Mariana Islands, and (vi) assistance in bonding and financing techniques to be used in capital development.

c) Representatives of both governments shall meet at least biennially to evaluate and discuss progress and achievements made under this agreement.

d) The Government of the Northern Mariana Islands shall demonstrate a decreasing reliance on Federal Covenant financial assistance for government operations by reducing such assistance by an average of $1 million a year during the seven-year period of this agreement, and by reducing the overall size of government. Capital development funds shall not be spent for government operations purposes.

e) The Government of the Northern Mariana Islands shall ensure continuation of an independent public agency that sets rates and fees for public utilities as described in Northern Mariana Islands Public Law 4-47. These services shall be fully funded, including both current expenses and long-term debt, without government subsidy through such user rates and fees by the end of the third year after this agreement is effective.

f) The Government of the Northern Mariana Islands shall ensure the continued administration of capital development funds by an autonomous public agency of the Northern Mariana Islands, as described in Northern Mariana Islands Public Law 4-49. Such administration shall include the coordination and approval of all public financing of capital improvement projects and economic development activities.

g) The Government of the Northern Mariana Islands shall obligate and expend those capital development funds to be devoted to capital improvement projects only according to definitions now contained in Northern Mariana Islands Public Law 4-46.

h) The Government of the Northern Mariana Islands, within three months after this agreement becomes effective, shall initiate a study and an implementation plan that shall ensure an actuarially sound, locally funded pension system for the Government of the Northern Mariana Islands by the end of the seven years after this agreement becomes effective. Alternative strategies to bring the pension system into actuarial balance and alternative time periods necessary to accomplish this objective shall also be analyzed. The plan shall be fully implemented within the seven years referred to above unless otherwise mutually agreed by representatives of the Government of the United States and the Government of the Northern Mariana Islands based on long-term financial considerations and sound governmental management.

i) The Government of the Northern Mariana Islands shall, within one year after this agreement becomes effective, develop a comprehensive plan for the transfer to the private sector of selected functions currently operated by the Government of the Northern Mariana Islands, and thereafter to the extent feasible, shall implement such transfers to the private sector.

5. Special Programs. The Government of the United States shall provide a one-time payment of $1 million for the Commonwealth Health Center operational start-up costs, and $500,000 for special technical assistance for developing a plan to fully fund the Government of the Northern Mariana Islands pension system. Should a portion of these pension study funds remain unexpended, the balance may be used for such technical assistance as the Government of the Northern Mariana Islands may determine.

PART III. CONGRESSIONAL OVERSIGHT AND REPORTING

1. Reporting. In addition to other reports and audits required by the Government of the United States, the Government of the Northern Mariana Islands shall furnish to the Congress of the United States, as part of its annual budget justification, a report on the use of the funds made available under the schedule of payments contained in this agreement. Such annual reports shall outline the achievements to date under the categories of funding (including the status of efforts to provide for capital development through the use of revenue and general obligation bonds, like instruments of public debt, and other financing techniques) and the progress of efforts to transfer selected functions to the private sector.

2. Settlement of Disputes. Should the Government of the United States believe that understandings or the performance standards of this agreement are not being met, it shall notify the Government of the

Northern Mariana Islands in writing, with the intent to resolve such issue in a mutually agreeable and expeditious manner. Should the issue not be resolved within thirty days after such notification is received, the Secretary of the Interior may propose deferral of Government of the Northern Mariana Islands operations funds pursuant to the Congressional Budget and Impoundment Control Act of 1974, (United States Public Law 93-344, 2 U.S.C. 681, et seq.).

PART IV. AMENDMENT OF THIS AGREEMENT

This agreement may be amended from time-to-time as mutually determined by the Secretary of the Interior, or his designee, and the Government of the Northern Mariana Islands, provided that the full faith and credit authorization and appropriation of the capital development funds, and the minimum shares guaranteed for Rota, Tinian and Saipan as provided in Part II, paragraph 3(c), shall not be subject to such amendment.

PART V. RECOMMENDED STATUTORY AMENDMENTS

In order to give effect to this agreement, the parties recommend that the Covenant (Public Law 94-241, 97 Stat. 1461) be amended as follows:

Be it Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 2 of Public Law 94-241 (97 Stat. 1461) is amended as follows --

In Section 703, Subsection (a), after the words "Section 702" add the words "and Section 705".

In Section 704, Subsections (a), (b) and (d), after the words "Section 702" add the words "and Section 705".

In Section 704, delete Subsection (c), and redesignate Subsection (d) as Subsection (c).

After Section 704 add a new Section 705, as follows:

> "Section 705. Enactment of this section by the United States Congress and approval by the President shall constitute a commitment and pledge of the full faith and credit of the United States for the payment, as well as an authorization for the appropriation, of $228 million at guaranteed annual amounts of direct grant assistance to the Government of the Northern Mariana Islands for an additional period of seven fiscal years after the expiration of the initial seven-year period specified in Section 702, which assistance shall be provided according to the Agreement of the Special Representatives on Future United States Financial Assistance for the Northern Mariana Islands, executed July 10, 1985, between the special representative of the President of the United States and the special representatives of the Governor of the Northern Mariana Islands. The islands of Rota and Tinian shall each receive no less than a 1/8 share and the island of Saipan shall receive no less than a 2/8 share of annualized capital improvement project funds, which shall be no less than 80% of the capital development funds identified in the Schedule of Payments in paragraph 2 of Part II of the Agreement of the Special Representatives."

In Section 1003, Subsection (b), delete "Article VII" and insert in lieu thereof "Section 701-704"; redesignate Subsection (c) as Subsection (d); and add a new Subsection (c) as follows:

(c) Section 705 will become effective on October 1, 1985.

Signed at Saipan, Northern Mariana Islands on the tenth day of July, 1985.

FOR THE UNITED STATES OF AMERICA:

Richard T. Montoya

Richard T. Montoya
Special Representative of the President of
the United States

FOR THE NORTHERN MARIANA ISLANDS:

Pedro A. Tenorio
Special Representative
of the Governor of the
Northern Mariana Islands

Benjamin T. Manglona
Special Representative
of the Governor of the
Northern Mariana Islands

Gregorio C. Sablan
Special Representative
of the Governor of the
Northern Mariana Islands

Ignacio Quichocho

Ignacio K. Quichocho
Special Representative
of the Governor of the
Northern Mariana Islands

TABLES

Table 1. GCNMI: Financial Resources, FY1978-FY1984
(Thousands of Current Dollars)

Sources of Financial Resources	1978	1979	1980	1981	1982	1983	1984	Total
Internal Resources:[a]								
Local Taxes	2,794.5	4,205.2	6,230.4	7,241.4	9,432.6	13,046.2	15,923.5	58,873.8
User Charges, **Fees & Reimbursements**	2,260.0	2,138.0	3,958.9	3,543.3	5,185.0	7,295.4	7,286.8	31,667.4
Autonomous Agency **Revenues**	1,442.6	2,193.3	2,885.0	3,811.1	3,955.9	5,335.1	7,154.3	26,777.3
Total Internal **Resources**	6,497.1	8,536.5	13,074.3	14,595.8	18,573.5	25,676.7	30,364.6	117,318.5
External Resources:								
U.S. Covenant **Grants and Payments**								
Section 702(a) -- **Operations**	9,871.0	11,918.0	13,038.0	14,390.0	15,231.0	16,108.0	16,333.0	96,889.0
Section 702(b) -- **CIP**	4,607.0	5,779.0	6,321.0	6,977.0	7,382.0	7,807.0	7,919.0	46,792.0
Section 702(c) -- **EDLF**	1,586.0	2,528.0	2,765.0	3,052.0	3,231.0	3,416.0	3,464.0	20,042.0
Section 802 -- **Tinian Lease**	--	--	--	--	--	33,000.0	--	33,000.0
Subtotal	16,064.0	20,225.0	22,124.0	24,419.0	25,844.0	60,331.0	27,716.0	196,723.0
Other U.S. **Grants**	6,796.5	20,988.7	15,317.0	13,887.7	12,456.7	27,953.1	25,563.1	122,962.8
Total External **Resources**	22,860.5	41,213.7	37,441.0	38,306.7	38,300.7	88,284.1	53,279.1	319,685.8
Total Resources	29,357.6	49,750.2	50,515.3	52,902.5	56,874.2	113,960.8	83,643.7	437,004.3

[a] Excludes **USTTPI funds carried over to CNMI.**

Source: GCNMI

Table 2. GCNMI: Projected and Actual Financial Resources, FY1978-FY1984 (Thousands of Constant 1978 Dollars)

Sources of Financial Resources	1978		1979		1980		1981		1982		1983		1984		Total		
	Proj.	Actual	Proj.	Actual	Proj.	Actual	Proj.	Actual	Proj.	Actual	Proj.	Actual	Proj.	Actual	Proj.	Actual	Difference (+) (-)
Internal Resources [a]																	
Local Taxes	2,764.0	2,794.5	3,901.0	3,721.5	4,186.0	4,867.5	5,758.0	4,987.2	5,984.0	6,008.1	6,285.0	7,911.6	6,990.0	9,204.3	35,868.0	39,494.7	+ 3,626.7
User Charges, Fees & Reimbursements	1,846.0	2,260.0	591.0	1,892.0	719.0	3,092.9	945.0	2,440.3	1,073.0	3,302.5	1,202.0	4,424.1	1,281.0	4,212.1	7,657.0	21,623.9	+13,966.9
Autonomous Agency Revenues [b]	849.0	1,442.6	3,548.0	1,941.0	3,902.0	2,253.9	4,252.0	2,624.7	4,625.0	2,519.7	5,039.0	3,235.4	5,465.0	4,135.4	27,680.0	18,152.7	- 9,527.3
Total Internal Resources	5,459.0	6,497.1	8,040.0	7,554.5	8,807.0	10,214.3	10,955.0	10,052.2	11,682.0	11,830.3	12,526.0	15,571.1	13,736.0	17,551.8	71,205.0	79,271.3	+ 8,066.3
External Resources:																	
U.S. Covenant Grants and Payments [a]																	
Section 702(a) -- Operations	9,787.0	9,871.0	10,016.0	10,016.0	10,100.0 [c]	10,016.0	10,016.0	10,016.0	10,016.0	10,016.0	10,016.0	10,016.0	10,016.0	10,016.0	69,967.0	69,967.0	--
Section 702(b) -- CIP	3,933.0	4,607.0	4,860.0	4,860.0	5,516.0 [c]	4,860.0	4,860.0	4,860.0	4,860.0	4,860.0	4,860.0	4,860.0	4,860.0	4,860.0	33,749.0	33,767.0	+ 18.0
Section 702(c) -- EDLF	1,593.0	1,586.0	2,124.0	2,124.0	2,124.0	2,124.0	2,124.0	2,124.0	2,124.0	2,124.0	2,124.0	2,124.0	2,124.0	2,124.0	14,337.0	14,330.0	- 7.0
Section 801 -- Tinian Lease	--	--	--	--	--	--	--	--	--	--	--	23,675.0	--	--	--	23,675.0	+23,675.0
Subtotal	15,313.0	16,064.0	17,000.0	17,000.0	17,740.0	17,000.0	17,000.0	17,000.0	17,000.0	17,000.0	17,000.0	40,675.0	17,000.0	17,000.0	118,053.0	141,739.0	+23,686.0
Other U.S. Grants	6,528.0	6,796.5	7,537.0	18,574.1	5,923.0	11,966.6	6,198.0	9,564.6	4,705.0	7,934.2	4,721.0	16,951.6	6,033.0	14,776.4	41,645.0	86,564.0	+44,919.0
Total External Resources	21,841.0	22,860.5	24,537.0	35,574.1	23,663.0	28,966.6	23,198.0	26,564.6	21,705.0	24,934.2	21,721.0	57,626.6	23,033.0	31,776.4	159,698.0	228,303.0	+68,605.0
Total Resources:	27,300.0	29,357.6	32,577.0	43,128.6	32,470.0	39,180.9	34,153.0	36,616.8	33,387.0	36,764.5	34,247.0	73,197.7	36,769.0	49,328.2	230,903.0	307,574.3	+76,671.3

[a] Excludes USTTPI funds carried over to CNMI.

[b] Projections include capital improvement funds programmed to be borrowed by autonomous agencies in FY1981 and FY1983 ($3.0 million in each year).

[c] Deferred transmittal of FY1978 operations and CIP funds, $740,000, was anticipated by OTSP to be transmitted to CNMI in FY1980.

Source: Projected resources from OTSP Socioeconomic Development Plan, Oct. 15, 1977, Vol.I, p. 129 (adjusted as noted above).

Actual resources from Table 1 (current dollars converted to 1978 constant dollars per GNP implicit price deflators, 1978-1984).

Table 3. GCNMI: Legislative Appropriations and
Administration Allotments, FY1978-FY1984[a]/
(Thousands of Current Dollars)

	1978 (Allotment)	1979 (Appropriation)	1980 (Appropriation)	1981 (Allotment)	1982 (Allotment)	1983 (Appropriation)	1984 (Appropriation)	Total
Government Operations:								
Legislative	--	1,777.1	1,800.0	1,830.0	2,485.7	3,068.5	4,140.0	--
Judiciary	--	254.6	260.8	264.5	273.7	312.2	338.2	--
Executive	--	14,526.6	17,278.0	22,498.7	25,394.6	29,249.1	23,689.8	--
Total Operations	15,278.4 b/ c/	16,558.3	19,338.8	24,593.2	28,154.0	32,629.8	28,168.0	164,720.5 c/
Capital Improvements:								
Agriculture	195.0	259.0	423.0	80.0	--	120.0	110.0	1,187.0
Fisheries	50.0	155.0	70.0	42.0	--	--	--	317.0
Econ Development - General	--	--	--	--	--	--	--	--
Housing	--	--	200.0	--	1,800.0	--	500.0	2,500.0
Homestead - Infrastructure	195.0	450.0	100.0	--	--	--	--	745.0
Education	805.0	1,569.0	1,325.0	310.0	846.0	421.0	1,777.3	7,133.3
Health	180.0	255.0	185.0	59.8	1,229.4	75.0	451.0	2,435.2
Community Development	20.0	436.0	465.0	256.0	240.0	--	182.9	1,599.9
Public Safety	65.0	631.0	135.0	126.0	217.0	103.0	318.3	1,595.3
Power	787.0	140.0	1,051.0	610.3	387.9	3,157.0	493.6	6,626.8
Water	418.0	722.0	1,216.0	--	822.4	1,241.9	647.6	5,067.9
Sewer and Sanitation	532.0	221.0	327.0	390.0	320.0	--	275.0	2,065.0
Roads	470.0	704.0	545.0	913.0	2,049.0	--	2,088.3	6,769.3
Ports	760.0	104.0	310.0	--	--	1,576.0	--	2,750.0
General and Administrative	505.0	263.0	552.0	848.3	143.0	260.0	1,075.0	3,646.3
Memorial Park	50.0	--	--	--	--	--	--	50.0
Total Capital Improvements	5,112.0 d/	5,909.0	6,904.0	3,635.4	8,054.7	6,953.9	7,919.0	44,488.0
Independent Programs/Autonomous Agencies	1,634.1 b/	6,851.8	6,047.9	5,069.3	5,620.3	9,970.1	16,638.8	51,832.3
Total Appropriations and Allotments	22,024.5	29,319.1	32,290.7	33,297.9	41,829.0	49,553.8	52,725.8	261,040.8

a/ Excludes GCNMI allotments and appropriations of U.S. direct grants for the Permanent Power Plant and Hospital.

b/ Actual expenditures (obligation basis) -- allotment for Operations and Independent Programs/Autonomous Agencies not available.

c/ Detail not available.

d/ $505,000 in prior year funds reprogrammed.

Source: GCNMI

Table 4. GCMNI: Projected and Actual Legislative Appropriations and Administrative Allotments, FY1978-FY1984
(Thousands of Constant 1978 Dollars)

	1978 (Allotment)		1979 (Appropriation)		1980 (Appropriation)		1981 (Allotment)		1982 (Appropriation)		1983 (Appropriation)		1984 (Appropriation)		Total	
	Proj.	Actual	Proj.	Actual	Proj.	Actual	Proj.	Actual	Proj.	Actual	Proj.	Actual	Proj.	Actual	Proj.	Actual
Government Operations:																
Legislative	1,565.0	--	750.0	1,372.7	765.0	1,406.3	780.0	1,260.3	796.0	1,583.2	812.0	1,860.8	828.0	2,393.0	6,296.0	—
Judiciary	298.0	--	310.0	224.8	207.0	203.8	211.0	182.2	215.0	174.3	220.0	189.3	224.0	195.0	1,685.0	—
Executive	10,943.0	--	12,306.0	13,055.4	12,912.0	13,498.4	13,595.0	15,494.9	14,030.0	16,174.9	14,458.0	17,737.5	14,837.0	13,693.5	93,081.0	—
Total Operations	12,806.0	15,278.4 a/	13,366.0	14,652.9	13,884.0	15,108.5	14,586.0	16,937.4	15,041.0	17,932.4	15,490.0	19,787.6	15,889.0	16,281.5	101,062.0	115,978.7 a/
Capital Improvements:																
Agriculture	340.0	195.0	292.0	229.2	325.0	330.5	165.0	55.1	335.0	--	322.0	72.7	190.0	63.6	1,969.0	946.1
Fisheries	50.0	50.0	185.0	137.2	190.0	54.7	130.0	28.9	155.0	--	320.0	--	150.0	--	1,180.0	270.8
Econ Development - General	150.0	--	175.0	--	175.0	--	200.0	—	250.0	—	--	--	--	--	950.0	—
Housing	—	--	--	--	200.0	156.3	290.0	--	290.0	1,146.5	290.0	—	290.0	209.0	1,360.0	1,591.8
Homestead - Infrastructure	245.0	195.0	450.0	398.2	--	78.1	200.0	--	200.0	--	200.0	--	--	--	1,295.0	671.3
Education	860.0	885.0	835.0	1,380.4	630.0	1,035.2	800.0	213.5	957.0	530.9	320.0	255.3	370.0	1,027.3	4,772.0	5,343.6
Health	75.0	180.0	500.0	228.3	1,000.0	144.5	850.0	41.2	--	783.1	--	45.5	--	260.7	2,425.0	1,683.3
Community Development	195.0	20.0	245.0	305.0	30.0	363.3	195.0	176.3	245.0	152.9	195.0	—	195.0	105.7	1,300.0	1,204.0
Public Safety	90.0	85.0	585.0	558.4	--	105.5	--	86.8	--	138.2	150.0	62.5	180.0	104.0	1,005.0	1,200.4
Power	672.0	787.0	465.0	123.9	350.0	821.1	250.0	420.3	100.0	247.1	250.0	1,914.5	--	285.3	2,087.0	4,599.2
Water	126.0	418.0	--	638.9	975.0	950.0	750.0	--	800.0	523.8	1,050.0	753.1	850.0	374.3	4,551.0	3,658.1
Sewer and Sanitation	266.0	532.0	150.0	195.6	150.0	255.5	285.0	268.6	150.0	203.8	270.0	--	573.0	159.0	1,844.0	1,614.5
Roads	695.0	670.0	603.0	623.0	610.0	425.0	931.0	628.8	646.0	1,305.1	735.0	—	1,160.0	1,207.1	5,380.0	4,859.0
Ports	450.0	760.0	200.0	92.0	--	242.2	620.0	—	1,300.0	--	1,220.0	955.7	870.0	--	4,660.0	2,049.9
General and Administrative	10.0	505.0	125.0	272.7	175.0	431.3	--	584.2	--	91.1	—	157.7	500.0	621.4	810.0	2,623.4
Memorial Park	50.0	50.0	50.0	--	50.0	--	--	--	--	--	--	--	--	--	150.0	50.0
Total Capital Improvements	4,274.0	5,112.0	4,860.0	5,231.6	4,860.0	5,394.0	5,666.0	2,503.7	5,428.0	5,130.5	5,322.0	4,217.0	5,328.0	4,577.4	35,738.0	32,166.2
Independent Programs/ Autonomous Agencies	144.0	1,634.1	551.0	6,063.5	318.0	4,724.9	382.0	3,491.3	391.0	3,579.8	349.0	6,046.1	358.0	9,617.0	2,493.0	35,157.5
Total Appropriations & Allotments	17,110.0	22,024.5	18,777.0	25,948.0	19,062.0	25,227.4	20,634.0	22,932.4	20,860.0	26,642.7	21,161.0	30,050.7	21,575.0	30,476.7	139,293.0	183,302.4

a/ Detail not available.

Source: Projected appropriations and allotments from OTSP Socioeconomic Development Plan, October 13, 1977, Volume III, pp. 528, 534-536. Actual appropriations and allotments from Table 3 (current dollars converted to constant 1978 dollars per GNP implicit price deflators, 1978-1984).

Table 5. GCNMI: Comparison of Projected and Actual Distribution of Legislative Appropriations and Administrative Allotments for Capital Improvements, FY1978-FY1984
(Percent)

Sector	1978 (Allotment) Proj.	1978 (Allotment) Actual	1979 (Appropriation) Proj.	1979 (Appropriation) Actual	1980 (Appropriation) Proj.	1980 (Appropriation) Actual	1981 (Allotment) Proj.	1981 (Allotment) Actual	1982 (Appropriation) Proj.	1982 (Appropriation) Actual	1983 (Appropriation) Proj.	1983 (Appropriation) Actual	1984 (Appropriation) Proj.	1984 (Appropriation) Actual	Total 1978-84 Proj.	Total 1978-84 Actual
Agriculture	8.0	3.8	6.0	4.4	6.7	6.1	2.9	2.2	6.2	--	6.1	1.7	3.6	1.4	5.5	2.9
Fisheries	1.2	1.0	3.8	2.6	5.9	1.0	2.3	1.2	2.9	—	6.0	—	2.8	--	3.3	.8
Econ Development - General	3.8	--	3.6	--	3.6	--	3.6	--	4.6	—	—	—	--	--	2.7	—
Housing	—	--	--	--	4.1	2.9	5.2	--	5.3	22.3	5.4	--	5.4	6.3	3.8	5.0
Homestead - Infrastructure	5.7	3.8	9.3	7.6	--	1.4	3.5	--	3.7	--	3.8	—	—	--	3.6	2.1
Education	20.1	17.3	17.2	26.5	11.0	19.2	14.1	8.5	17.6	10.5	6.0	6.1	7.0	22.4	13.4	16.6
Health	1.8	3.5	10.3	4.4	20.6	2.7	15.1	1.6	--	15.3	--	1.1	—	5.7	6.8	5.3
Community Development	4.8	.4	5.0	7.4	.6	6.8	3.4	7.1	4.5	3.0	3.7	--	3.6	2.3	3.6	3.7
Public Safety	2.1	1.2	12.0	10.7	--	2.0	--	3.5	--	2.7	2.8	1.5	3.4	4.0	2.8	3.7
Power	13.7	15.4	9.6	2.4	7.2	15.2	4.4	16.8	1.8	4.8	4.7	45.4	—	6.2	5.8	14.3
Water	2.9	8.2	--	12.2	20.1	17.6	13.2	--	14.7	10.2	19.7	17.9	16.0	8.2	12.7	11.4
Sewer and Sanitation	6.2	10.4	3.1	3.7	3.1	4.7	5.0	10.7	2.8	4.0	5.1	—	10.7	3.5	5.2	5.0
Roads	16.3	9.2	12.4	11.9	12.6	7.9	16.4	25.1	11.9	25.4	13.8	—	21.8	26.4	15.1	14.5
Ports	10.5	14.9	4.1	1.8	--	4.5	10.9	--	24.0	—	22.9	22.6	16.3	--	13.0	6.4
General and Administrative	.3	9.9	2.6	4.4	3.5	8.0	--	23.3	--	1.8	—	3.7	9.4	13.6	2.3	8.2
Memorial Park	1.2	1.0	1.0	--	1.0	--	--	--	--	--	—	—	--	--	.4	.2
Total Capital Improvements	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

Source: Table 4.

Table 8. GCNMI: Projected and Actual U.S. Agency Grants for Capital Improvements, FY1978-FY1984 (Thousands of Constant 1978 Dollars)

	1978		1979		1980		1981		1982		1983		1984		Total		
	Proj.	Actual	Proj.	Actual	Proj.	Actual	Proj.	Actual	Proj.	Actual	Proj.	Actual	Proj.	Actual	Proj.	Actual	(+) (-)
Agency:																	
DOI	--	--	--	--	--	3,906.3	--	--	--	825.5	--	6,064.3	--	6,213.9	--	17,010.0	--
EPA	--	59.7	--	1,429.7	--	--	--	451.0	--	--	--	--	--	147.1	--	2,087.5	--
FHWA	--	--	--	846.6	--	528.6	--	305.8	--	256.1	--	935.5	--	465.4	--	3,338.0	--
EDA	--	1,040.7	--	--	--	1,172.5	--	--	--	--	--	606.4	--	319.7	--	3,139.3	--
HHS	--	--	--	61.8	--	129.0	--	--	--	--	--	898.2	--	--	--	1,089.0	--
FAA	--	3,013.3	--	3,396.5	--	1,045.0	--	547.1	--	--	--	564.8	--	916.8	--	9,478.5	--
COE	--	--	--	--	--	--	--	--	--	--	--	1,312.9	--	--	--	1,312.9	--
HUD	--	275.9	--	365.8	--	78.1	--	208.5	--	254.8	--	301.1	--	231.2	--	1,715.1	--
Total Grants	2,586.0 a/	4,389.2	4,012.0 a/	5,700.4	2,212.0 a/	6,859.5	2,687.0 a/	1,505.4	1,009.0 a/	1,236.4	765.0 a/	10,185.3	1,829.0 a/	9,294.1	15,100 a/	38,170.3	+23,070.3

a/ Detail not available

Source: GCNMI

Table 7. GCNMI: Expenditures, FY1978-FY1984[a]
(Thousands of Current Dollars)

Expenditure Class	1978	1979	1980	1981	1982	1983	1984	Total
General Fund								
Legislative	--	--	--	1,888.9	2,511.7	3,257.2	4,101.6	--
Judiciary	--	--	--	247.7	290.8	328.1	348.3	--
Executive	--	--	--	25,432.1	28,558.5	35,498.8	37,988.9	--
Total Operations	15,278.4[b]	20,205.1[b]	23,997.8[b]	27,568.7	31,361.0	39,084.1	42,438.8	199,933.9[b]
Capital Improvements Fund	3,090.4	5,253.6	9,098.1	4,578.2	8,127.1	8,444.6	6,976.4	45,568.4
Federal Grant and Other Funds	6,462.0	4,474.2	7,170.0	12,866.8	14,488.8	10,105.3	22,735.1	78,302.2
Autonomous Agencies	1,634.1	2,100.7	2,931.7	3,600.9	4,160.3	4,628.7	4,324.8	23,381.2
Total Expenditure	26,464.9	32,033.6	43,197.6	48,614.6	58,137.2	62,262.7	76,475.1	347,185.7

[a] Obligation basis.

[b] Detail not available for 1978-1980.

Source: GCNMI

Table 8. CNMI: Projected and Actual Expenditures[a]
FY1978-FY1984
(Thousands of Constant 1978 Dollars)

Expenditure Class	1978 Proj.	1978 Actual	1979 Proj.	1979 Actual	1980 Proj.	1980 Actual	1981 Proj.	1981 Actual	1982 Proj.	1982 Actual	1983 Proj.	1983 Actual	1984 Proj.	1984 Actual	Total Proj.	Total Actual	Total (+) (-)
General Fund																	
Legislature	1,565.0	—	750.0	--	765.0	--	780.0	1,300.9	798.0	1,599.0	813.0	1,975.3	828.0	2,370.9	6,296.0	—	--
Judiciary	290.0	—	310.0	--	207.0	--	211.0	170.6	215.0	185.2	220.0	199.0	224.0	201.4	1,689.0	—	--
Executive[b]	10,961.0	--	12,306.0	--	12,912.0	--	13,595.0	17,515.2	14,030.0	18,190.1	14,458.0	21,327.5	14,837.0	21,958.9	93,081.0	--	--
Total Operations	12,806.0	15,278.4[c]	13,366.0	17,880.6[c]	13,884.0	18,748.3[c]	14,586.0	18,986.7	15,041.0	19,975.1	15,490.0	23,701.8	15,889.0	24,531.2	101,062.0	139,102.1[c]	+38,040.1[c]
Capital Improvements Fund	5,164.0	3,090.4	5,110.0	4,649.1	4,860.0	7,107.9	5,666.0	3,153.0	5,420.0	5,176.4	5,322.0	8,444.6	5,328.0	4,032.6	36,870.0	35,654.0	- 1,216.0
Federal Grant and Other Funds	6,520.0	6,462.0	7,537.0	3,958.7	5,931.0	5,601.5	6,198.0	8,861.5	6,705.0	9,220.5	6,721.0	10,105.3	6,033.0	13,141.7	45,645.0	57,350.2	+11,705.2
Autonomous Agencies[b]	993.0	1,634.1	4,099.0	1,859.1	4,220.0	2,290.4	4,634.0	2,480.0	5,016.0	2,849.9	5,388.0	2,807.0	5,823.0	2,499.9	30,173.0	16,220.4	-13,952.6
Total Expenditures	25,491.0	26,464.9	30,112.0	28,347.5	28,887.0	33,748.1	31,084.0	33,481.2	30,190.0	37,029.9	30,921.0	45,058.7	33,073.0	44,205.4	209,750.0	248,335.7	+38,577.7

[a] Obligation basis.

[b] Projected expenditures for autonomous agencies equal projected agency revenues plus subsidies included in the executive branch budgets planned by OTSP. Projected expenditures for the executive branch equal planned budgets less subsidies for the autonomous agencies.

[c] Detail not available.

Sources: Projected expenditures from OTSP Socioeconomic Development Plan, Oct. 15, 1977, Vol. III., pp. 528, 530

Actual expenditures from Table 7 (current dollars converted to constant 1978 dollars per GNP implicit price deflators, 1978-1984).

Table 9. GCNMI: Schedule of Actual Personnel Levels, FY1981-FY1984

Entity	Fiscal Year	Civil Service	Elected	Appointed and Ungraded	Contract	Total
Executive Branch	1981	1,377	7	566	10	1,960
	1982	1,560	7	587	58	2,212
	1983	1,445	7	426	136	2,014
	1984	1,598	7	378	222	2,205
Judicial Branch	1981	9	--	4	--	13
	1982	8	--	5	--	13
	1983	8	--	5	--	13
	1984	6	--	4	2	12
Legislative Branch	1981	1	23	120	--	144
	1982	3	23	36	83	145
	1983	3	23	40	94	160
	1984	5	24	26	212	267
Total Three Branches	1981	1,387	30	690	10	2,117
	1982	1,571	30	628	141	2,370
	1983	1,456	30	471	230	2,187
	1984	1,609	31	408	436	2,484

Source: GCNMI

Table 10. GCNMI: **Total Available Financial**
Resources and Expenditures, FY1978-FY1984
(Thousands of Current Dollars)

	Internal Resources	------------Covenant Resources------------			Total Resources	Total Expenditures	Surplus/ Deficit ( )
		Sec. 702(a)	Sec. 702(b)	Sec. 702(c)			
1978	6,497.1	9,871.0	4,607.0	1,586.0	22,561.1	20,002.9	2,558.2
1979	8,536.5	11,918.0	5,779.0	2,528.0	28,761.5	27,559.4	1,202.1
1980	13,074.3	13,038.0	6,321.0	2,765.0	35,198.3	36,027.6	(829.3)
1981	14,595.8	14,390.0	6,977.0	3,052.0	39,014.8	35,747.8	3,267.0
1982	18,573.5	15,231.0	7,382.0	3,231.0	44,417.5	43,648.4	769.1
1983	25,676.7	16,108.0	7,807.0	3,416.0	53,007.7	52,157.4	850.3
1984	30,364.6	16,333.0	7,919.0	3,464.0	58,080.6	53,740.0	4,340.6
Total	117,318.5	96,889.0	46,792.0	20,042.0	281,041.5	268,883.5	12,158.0

Source: **Tables 1 and 7.**

Table 11. GCNMI: Available Financial Resources for Operations and Operations Expenditures, FY1978-FY1984
(Thousand of Current Dollars)

	Financial Resources for Operations					
	Local Taxes	User Charges and Reimb.	Covenant 702(a) Funds	Total	Operations Expenditures	Surplus/ Deficit ( )
1978	2,794.5	2,260.0	9,871.0	14,925.5	15,278.4	(352.9)
1979	4,205.2	2,138.0	11,918.0	18,261.2	20,205.1	(1,943.9)
1980	6,230.4	3,958.9	13,038.0	23,227.3	23,997.8	(770.5)
1981	7,241.4	3,543.3	14,390.0	25,174.7	27,568.7	(2,394.0)
1982	9,432.6	5,185.0	15,231.0	29,848.6	31,361.0	(1,512.4)
1983	13,046.2	7,295.4	16,108.0	36,449.6	39,084.1	(2,634.5)
1984	15,923.5	7,286.8	16,333.0	39,543.3	42,438.8	(2,895.5)
Total	58,873.8	31,667.4	96,889.0	187,430.2	199,933.9	(12,503.7)

Source: Tables 1 and 7.

Table 12. GCNMI: Wage and Salary Income and Number of Wage and Salary Earners in the N.M.I., 1978-1983

Year	Wage & Salary Income (Thousands of Current Dollars)	Wage & Salary Earners	Average Earnings (Current Dollars)	Average Earnings (Constant 1978 Dollars)
1978	$28,714	7,317	$3,926	$3,926
1979	37,378	7,472	5,002	4,427
1980	41,863	7,627	5,489	4,288
1981	48,180	8,180	5,890	4,056
1982	54,868	9,202	5,963	3,798
1983	63,725	9,752	6,534	3,962

Source: GCNMI

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
STATEMENTS OF GOVERNMENT OPERATIONS EXPENDITURES
LEGISLATIVE BRANCH
FISCAL YEARS 1981 TO 1984

	TOTAL	1981	1982	1983	1984
PERSONNEL SERVICES	$8,122,343	$1,426,245	$1,701,212	$2,276,138	$2,718,748
PERSONNEL BENEFITS	414,122	73,395	87,591	115,272	137,864
TOTAL PERSONNEL EXPENDITURES	8,536,465	1,499,640	1,788,803	2,391,410	2,856,612
TRAVEL	550,206	99,782	103,840	174,875	171,709
EQUIPMENT RENTAL	117,364	30,197	19,846	30,108	37,213
PROFESSIONAL SERVICES	416,470	19,818	93,828	82,207	220,617
CAPITAL OUTLAY	182,939	6,487	38,836	54,403	83,213
MISCELLANEOUS	1,956,065	233,001	466,585	524,201	732,278
TOTAL NON-PERSONNEL EXPENDITURES	3,223,044	389,285	722,935	865,794	1,245,030
TOTAL	$11,759,509	$1,888,925	$2,511,738	$3,257,204	$4,101,642

NOTE: Legislative branch operating expenditure data for fiscal years 1978 to 1980 are not readily available.

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
STATEMENTS OF GOVERNMENT OPERATIONS EXPENDITURES
EXECUTIVE BRANCH
FISCAL YEARS 1981 TO 1984

	TOTAL	1981	1982	1983	1984
PERSONNEL SERVICES	$ 61,640,729	$11,762,306	$13,689,493	$17,307,057	$18,881,873
PERSONNEL BENEFITS	16,050,243	3,396,015	2,393,935	5,073,524	5,186,769
TOTAL PERSONNEL EXPENDITURES	77,690,972	15,158,321	16,083,428	22,380,581	24,063,642
TRAVEL	4,297,777	876,136	1,431,390	1,257,672	732,579
EQUIPMENT RENTAL	471,959	132,066	132,061	105,646	102,186
PROFESSIONAL SERVICES	5,718,281	500,650	1,027,067	2,143,802	2,046,762
CAPITAL OUTLAY	768,160	62,417	135,996	230,319	339,428
MISCELLANEOUS	38,531,161	8,702,539	9,748,500	9,380,811	10,699,311
TOTAL NON-PERSONNEL EXPENDITURES	49,787,338	10,273,808	12,475,014	13,118,250	13,920,266
TOTAL	$127,478,310	$25,432,129	$28,558,442	$35,498,831	$37,988,908

Note: Executive branch operating expenditure data for fiscal years 1978 to 1980 are readily available.

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

STATEMENTS OF UTILITY OPERATIONS

FISCAL YEARS 1981 TO 1984

	TOTAL	1981	1982	1983	1984
VENUE:					
Power Service Revenue	$ 9,395,976	$ 1,372,400	$ 2,122,300	$ 3,389,560	$ 2,511,716
Water Service Revenue	355,921	59,000	139,200	68,983	88,738
TOTAL UTILITY REVENUE	9,751,897	1,431,400	2,261,500	3,458,543	2,600,454
XPENDITURES:					
Fuel	24,915,979	5,757,416	6,168,269	6,316,608	6,673,686
Personnel and Others	2,882,568	599,849	630,351	759,019	893,349
TOTAL UTILITY EXPENDITURES	27,798,547	6,357,265	6,798,620	7,075,627	7,567,035
XCESS REVENUE OVER (UNDER) EXPENDITURES	$(18,046,650)	$(4,925,865)	$(4,537,120)	$(3,619,084)	$(4,966,581)

)TE: Utility revenue and expenditure data for fiscal years 1978 to 1980 are not readily available

Senator WEICKER. Thank you very much.

Mr. Sablan.

STATEMENT OF GREGORIO C. SABLAN, SPECIAL REPRESENTATIVE OF THE GOVERNOR, COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Mr. SABLAN. Yes. Thank you very much, Mr. Chairman.

I have submitted testimony. However, I would like to add on to that, and specifically point out three issues that I would like your committee to look into.

One, I would ask the committee to include an explicit statement in the enabling legislation that underscores the completeness of the July 10 agreement.

Two, Mr. Chairman, while I am not passing judgment, there was never any agreement reached between the special representatives in regard to indexing. I am, however, asking the committee to consider that, indexing to the Northern Mariana Islands on funding to continue.

Three, Mr. Chairman, I ask the committee to urge the formation of a panel to discuss other nonfinancial issues as soon as possible. The settling of some of these issues could extend, or could double and even triple the impact of the financial assistance being made available to the Northern Mariana Islands.

Thank you very much.

[The prepared statement of Mr. Sablan follows:]

STATEMENT

OF

GREGORIO C. SABLAN

SPECIAL REPRESENTATIVE OF THE

GOVERNOR

OF THE

NORTHERN MARIANA ISLANDS

BEFORE THE

SENATE ENERGY AND NATURAL RESOURCES COMMITTEE

HEARING ON MULTI-YEAR COVENANT FUNDING (S.J.RES.192)

UNITED STATES SENATE

DECEMBER 3, 1985

STATEMENT OF
GREGORIO C. SABLAN
BEFORE THE
SENATE ENERGY AND NATURAL RESOURCES COMMITTEE
HEARING ON MULTI-YEAR COVENANT FUNDING (S.J.RES. 192)
UNITED STATES SENATE
DECEMBER 3, 1985

MR. CHAIRMAN AND HONORABLE MEMBERS OF THE COMMITTEE:

THANK YOU FOR THE OPPORTUNITY TO PRESENT MY VIEWS ON SENATE JOINT RESOLUTION 192, WHICH IS INTENDED TO IMPLEMENT THE AGREEMENT OF THE SPECIAL REPRESENTATIVES ON FUTURE UNITED STATES FINANCIAL ASSISTANCE FOR THE NORTHERN MARIANA ISLANDS (AGREEMENT). UNTIL MY RECENT REVIEW OF THE CONGRESSIONAL RECORD, I WAS GENERALLY IN SUPPORT OF S.J.RES. 192. HOWEVER, I FIND MYSELF IN THE DUBIOUS POSITION OF BEING A SIGNATORY OF THE AGREEMENT AND NOW HAVING CERTAIN RESERVATIONS TO PARTS OF THE AGREEMENT. AS ONE OF THE SPECIAL REPRESENTATIVES WHO NEGOTIATED THE TEXT OF THIS AGREEMENT, I CAN ASSURE YOU THAT IT WAS OUR INTENT THAT THE DOCUMENT WHICH YOU HAVE BEFORE YOU WOULD BE THE COMPLETE EXPRESSION OF ALL UNDERSTANDINGS OR TERMS AGREED TO BY THE RESPECTIVE PARTIES. OF COURSE THE CONVERSE IS ALSO TRUE, THAT ANY AREAS UPON WHICH WE DISAGREED ON OR COULD NOT REACH AGREEMENT UPON, WERE NOT INCLUDED IN THE AGREEMENT. THEREFORE, EACH SIDE WAS FREE TO PRESENT ITS VIEWS ON THOSE SUBJECTS DIRECTLY TO CONGRESS.

BASED ON THESE CIRCUMSTANCES, I OBJECT TO THAT PART OF ASSISTANT SECRETARY MONTOYA'S LETTER, TO THE PRESIDENT OF THE SENATE, WHICH STATES: " ALSO UNDERSTOOD BY THE SPECIAL REPRESENTATIVES ARE THE FACTS THAT INDEXING WOULD NO LONGER BE APPLICABLE TO NORTHERN MARIANA ISLANDS FUNDS,...". AS THE COMMITTEE CAN PLAINLY SEE THE AGREEMENT IS SILENT REGARDING INDEXING, BUT IT CERTAINLY DOES NOT STATE THAT NO INDEXING WILL BE AVAILABLE. I CONTEND THAT THIS IS ONE OF THOSE SUBJECTS THAT WE RESERVE THE RIGHT TO BRING DIRECTLY TO CONGRESS.

I AM SPECIFICALLY ASKING THIS CONGRESS TO CONTINUE THE PRECEDENT OF THE FIRST PERIOD OF MULTI-YEAR FINANCIAL ASSISTANCE BY PROVIDING INFLATIONARY INDEXING OF NORTHERN MARIANA ISLANDS (NMI) FUNDING. CONDITIONS IN THE NMI ARE SUCH THAT NO AGREEMENT CAN POSSIBLY FORESEE EVERY CONTINGENCY. WE HAVE A NEW 30 MILLION DOLLAR HOSPITAL WHICH WILL BEGIN OPERATIONS IN THE VERY NEAR FUTURE. WE HAVE A RETIREMENT SYSTEM CARRIED OVER FROM TRUST TERRITORY ADMINISTRATION WHICH HAS SERIOUS UNFUNDED LIABILITIES. WE HAVE ALSO INITIATED LOCAL LEGISLATION WHICH

WILL ESTABLISH U.S./LOCAL PREFERENCES FOR COMPANIES BIDDING ON CONTRACTS FOR PROJECTS FINANCED BY THIS ASSISTANCE. THESE ITEMS ARE NOT MENTIONED IN THE AGREEMENT, THEY WERE DISCUSSED BUT PURPOSELY NOT INCLUDED. WE SPECIFICALLY DISCUSSED THE POSSIBILITY THAT THESE MATTERS MIGHT BE BROUGHT TO CONGRESS AND MR. MONTOYA SPECIFICALLY RESERVED THE RIGHT TO SUPPORT OR OPPOSE SUCH REQUESTS.

THIS DISAGREEMENT AS TO OUR INTERPRETATION OF THE AGREEMENT BRINGS ME TO ANOTHER POINT WITH WHICH I AM CONCERNED. THE AGREEMENT PROVIDES THAT THE FULL FAITH AND CREDIT OF THE UNITED STATES FOR THE PAYMENT OF NMI GOVERNMENT OPERATIONS FUNDING IS CONDITIONED UPON OUR GOVERNMENT'S COMPLIANCE WITH THE PERFORMANCE STANDARDS AND "UNDERSTANDINGS" EMBODIED IN THE AGREEMENT. IN ADDITION, THE SECRETARY OF THE INTERIOR MAY DEFER OUR FUNDING IF HE BELIEVES WE ARE NOT COMPLYING WITH THOSE PERFORMANCE STANDARDS AND UNDERSTANDINGS. IT WILL NOT BE DIFFICULT TO DETERMINE WHETHER OR NOT WE ARE COMPLYING WITH STANDARDS WHICH ARE CLEARLY LISTED IN THE AGREEMENT. IT IS MY POSITION THAT WE HAVE REACHED NO UNDERSTANDINGS OTHER THAN THE TERMS WHICH ARE CONTAINED IN THE TEXT OF THE AGREEMENT. SINCE WE ALREADY HAVE ISSUES WHICH ARE GIVING RISE TO DISPUTES, THERE IS A STRONG POSSIBILITY THAT WE WILL BE PLACING OUR GOVERNMENT FUNDING AT THE MERCY OF SEMANTICISTS WITHIN THE FEDERAL

BUREAUCRACY. I THEREFORE ASK THE COMMITTEE TO DELETE ANY REFERENCE TO THE WORD "UNDERSTANDINGS" IN THE IMPLEMENTING LEGISLATION.

I ALSO WISH TO EMPHASIZE TO THE COMMITTEE THAT THE NMI HAS ALREADY DONE MUCH TO ASSURE THE PRODUCTIVE AND EFFICIENT USE OF THE FUNDING UNDER THIS AGREEMENT. SOME OF THE STATUTES REFERRED TO IN THE AGREEMENT GO SO FAR AS TO CURTAIL CERTAIN PREVIOUSLY EXCLUSIVE LEGISLATIVE PREROGATIVES. THE STATUTE WHICH CREATES THE COMMONWEALTH DEVELOPMENT AUTHORITY (NMI P.L.4-49) FOR EXAMPLE, INFRINGES ON THE RIGHT OF THE LEGISLATURE TO MAKE APPROPRIATIONS FOR CAPITAL IMPROVEMENT PROJECTS. HOWEVER, AS EARLY AS THREE YEARS AGO AND WELL BEFORE THE START OF THESE NEGOTIATIONS, LOCAL LEGISLATORS REALIZED THE NEED TO DEPOLITICIZE THE METHOD OF ADMINISTERING AND IMPLEMENTING OUR "BRICK AND MORTAR" REQUIREMENTS. THE LEGISLATURE CONTINUES ITS OVERSIGHT AUTHORITY BY RETAINING THE RIGHT TO APPROVE PROPOSED CAPITAL DEVELOPMENT PLANS AND FINANCING. THUS THE LEGISLATURE HAS NOT TOTALLY ABDICATED ITS POWERS TO EXECUTIVE BRANCH AGENCIES.

AND FINALLY, MR. CHAIRMAN, I WOULD ASK YOUR COMMITTEE AND THE ENTIRE CONGRESS TO URGE THE NECESSARY AND RESPONSIBLE PARTIES TO PROVIDE FOR REVIEW OF THE "OTHER" NON FINANCIAL ISSUES, UNDER THE COVENANT, THAT HAVE BECOME PROBLEM AREAS IN THE OTHERWISE EXCELLENT RELATIONSHIP BETWEEN THE UNITED STATES AND THE NORTHERN MARIANA ISLANDS. THIS WILL ALLOW US TO IMPLEMENT THE DICTATES OF SECTION 902 OF PUBLIC LAW 94-241, AND PROVIDE THE PROPER ATTENTION WHICH THESE ISSUES SO RIGHTLY DESERVE.

Senator WEICKER. Thank you very much. There might be further questions for responses submitted to the record, and we'll do that at a later date.

Thank you very much.

Mr. SABLAN. Thank you, sir.

Senator WEICKER. Our final witness is the Honorable Richard Montoya, the Assistant Secretary for Territorial and International Affairs of the Department of the Interior.

Rick, it's nice to have you here with us. Why don't you go ahead and introduce such staff as you've brought with you.

STATEMENT OF HON. RICHARD T. MONTOYA, ASSISTANT SECRETARY, TERRITORIAL AND INTERNATIONAL AFFAIRS, DEPARTMENT OF THE INTERIOR, ACCOMPANIED BY DAVE HEGGESTAD, BUDGET OFFICER, AND MARK HAYWARD, EXECUTIVE ASSISTANT

Mr. MONTOYA. Thank you, Mr. Chairman. It's a pleasure to be with you.

Senator WEICKER. Your statement in its entirety will be included in the record, and you may proceed as you deem fit.

Mr. MONTOYA. At the table with me are Dave Heggestad, my budget officer; and Mark Hayward, my executive assistant who was pretty much the architect for me on the Covenant Agreement with the Northern Marianas.

Mr. Chairman——

Senator WEICKER. I might add, just as I've indicated, that if there are some comments to be made by those who have already testified relative to your testimony, feel free to contact my staff, so I think that if you have any comments to make vis-a-vis what you've heard so far this morning, please you, and any of those that you have at the table with you, feel free to comment on that.

In other words, if you want to depart from your prepared remarks in relation to what you've heard, don't hesitate to edify the committee as to your feelings on this matter.

Mr. MONTOYA. Thank you, Mr. Chairman.

In the interest of the committee's time, many of the points that are in my statement were covered by Lieutenant Governor Tenorio. I'll pass over those and just very briefly summarize, in a couple of minutes, the points I would like to make.

First of all, Mr. Chairman—Guam lands—as has been stated by the other witnesses, this is an issue that has been long pending. I requested that Wayne Arny, Deputy Assistant Secretary of the Navy, go to Guam to meet with local officials, as well as the military leaders in both Guam and Hawaii, and to take a look at this long-festering issue. He has done that, and we expect to report on the issue in the very near future that we will submit to this committee.

On the Northern Marianas Islands financial assistance, this is probably the most substantive thing that has been accomplished during my tenure as Assistant Secretary. I am extremely pleased with this Covenant Agreement. The first 7 years were not too great for the Northern Marianas. Much was accomplished, but there really was not the kind of guidance that would lead to a strong partnership in the future.

The second 7 years of development for the Northern Marianas is extremely important. As we deliberated on this issue, I set down goals and objectives for my negotiating team. We had to have performance standards—benchmarks that would allow the Northern Marianas to measure their progress—that could be evaluated not only by the Northern Marianas, which is our primary concern, but also by the U.S. Government. We had to make sure that the second phase of this development brought true development, rather than just merely doling out money and not having any indication of whether we were progressing or whether we were providing the type of social, economic, and political development for which we are all striving.

Under this second phase of funding, Mr. Chairman, it is important to note that several issues were addressed. I disagree with Mr. Sablan. One of the things that was explicit was that in a tradeoff for full faith and credit we would have no indexing; there would be a fixed amount for Government operations and capital improvements. Technical assistance money for the hospital and for the pension fund is to put those functions on a stable footing.

This is extremely important. For example, the pension fund is running at a $54 million deficit right now. At its current rate, it will break that government. I liken this Covenant Agreement, Mr. Chairman, to an arch. Each part of this arch is a supporting stone in this structure. If any stone is removed, the whole arch will fall.

It is an integrated plan that will work. It has to work. It provides the type of strings attached that can keep this out of the realm of territorial politics in the Northern Marianas. I must commend the Lieutenant Governor, the other members of his negotiating team, and the legislature for realizing the shortcomings of their government and the problems that existed in the past. Based on that, they responded to these problems with corrective legislative action, which was taken up additionally by the Constitutional Convention. The convention implemented some of the very cornerstones of this Covenant Agreement: to reduce government spending, to make the government more efficient, to bring in privatization, to bring in user fees on the power and water and, most importantly, to leverage the capital improvement projects through full faith and credit, that can be used very efficiently in the Northern Marianas.

We commend the legislature and the people of the Northern Marianas for reducing the size of their legislature's expense from a highwater mark of $4.5 million to its new level that has been capped at $2.8 million. Over the past 18 months, the Northern Marianas has made phenomenal success and advances in reducing the size of government and enhancing the possibility of creating a better climate for growth in the Northern Marianas.

It also provides a savings to the Federal Government by reducing or eliminating the indexing, which I think is key. We can capitalize these CIP funds by providing a stream of income and then frontload construction. It reduces the expansion of the government growth, and it will limit the size of government from its current level of 42 percent. It will expand the private sector, and it will provide a pension system that will be solvent, and also require user fees for power.

Again, each provision supports the other. This was a well-thought-out concept. This agreement has been signed—by me for the executive branch of the U.S. Government, and by Lieutenant Governor Tenorio representing the Northern Marianas.

One final point, Mr. Chairman, concerns the other nonfinancial issues. The President named me as special representative to negotiate these other issues in the very near future. We will be starting right after the first of the year.

That concludes my summary, Mr. Chairman. I will be pleased to answer any questions you might have.

[The prepared statement of Mr. Montoya follows:]

STATEMENT OF RICHARD T. MONTOYA, ASSISTANT SECRETARY OF THE INTERIOR FOR TERRITORIAL AND INTERNATIONAL AFFAIRS, BEFORE THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, REGARDING FUTURE FINANCIAL ASSISTANCE FOR THE NORTHERN MARIANA ISLANDS AND DISPOSITION OF UNNEEDED MILITARY LAND ON GUAM, DECEMBER 3, 1985

Mr. Chairman and members of the Committee on Energy and Natural Resources. It is with pleasure and a sense of accomplishment that I appear before you today to discuss the Agreement of the Special Representatives on Future United States Financial Assistance for the Northern Mariana Islands (NMI). With regard to disposal of excess military land on Guam, a number of interagency issues are raised, which are currently being considered within the Executive Branch. No final position has yet been developed. We will send a report on the issue to you in the very near future.

NMI Financial Assistance

My sense of accomplishment regarding NMI funding stems from our success in reaching agreement on a financial assistance package, which marks a substantial departure from past practice, and which sets a positive course for the future.

The Covenant to Establish a Commonwealth of the Northern Mariana Islands in Union with the United States of America (Covenant) (Public Law 96-241) provides the framework for the commonwealth relationship between the Northern Mariana Islands and the United States, which, for the most part, has been implemented de facto, and which will be implemented de jure upon termination of the trusteeship agreement. We look forward to taking the final steps for establishing the commonwealth and welcoming our friends in the Northern Mariana Islands as citizens of the United States of America.

The Covenant mandates meetings of special representatives of the President of the United States and Governor of the Northern Mariana Islands every ten years, or in any event to consider and make recommendations regarding future multi-year financial assistance. I was appointed the President's special representative, and Pedro A. Tenorio, Benjamin T. Manglona, Gregorio C. Sablan, and Ignacio K. Quichocho were appointed the Governor's special representatives. The negotiations were your textbook case of classic hard bargaining from both sides.

The Issues

From the perspective of the Federal government we were faced with a number of pressing issues as we entered the negotiations. The Covenant provided for annual funding for the NMI in the amount of $14 million plus inflation indexing. The indexing means that for fiscal year 1986, the NMI would have received approximately $27.7 million, with virtually no strings attached. The lack of strings led to increasing spending on government operations that did not conform to the original goals of the Covenant. Besides the ever increasing payments with indexing and no strings, we had to address the unchecked growth of government employment, the heavy subsidization of electricity, the ever-increasing unfunded liability of the government's pension system, the lack of capital development, and the lack of growth in the private sector.

The Result

The result is a cohesive arrangement, with interdependent parts, covering seven fiscal years, 1986 though 1992. The United States full faith and credit guarantee would continue to apply to the $228 million agreement, which provides $126 million for capital development, $100.5 million for government operations, and $1.5 million for hospital start-up costs and pension planning. The full faith and credit provision applicable to the government operations portion of the funds is specifically conditioned on the NMI meeting a series of performance standards. This is an important change from past practice where no strings were attached. The schedule of financing contained in the agreement reflects the following principles and triggers application of the performance standards:

- priority for capital and economic development (with augmenting private bonding) over funding of government operations,
- reduction in government operations by at least $1 million a year,

- continuation of NMI's independent and autonomous regulatory authorities governing utilities, borrowing and economic development, which will put utilities on a user-fee/pay-as-you-go basis within three years,
- planning for full funding of the government's pension system by the end of the seven-year agreement period, and
- privatization of government services.

Biennial meetings of representatives of the governments of the United States and NMI shall be held to evaluate progress under the agreement. It is anticipated that such meetings, along with the mere presence of the authority for the Secretary to recomme congressional deferral of operations funds will bring about conscientious implementation on the part of the NMI, thus obviating use of the deferral authority.

Besides the understanding that NMI funds will no longer be indexed, the special representatives understand that the expenses of the legislature will be reduced through public law enacted by the NMI legislature.

The Department of the Interior requested $27,726,000 for the NMI for fiscal year 1986; the same amount is necessary for implementing the agreement in 1986. In the first year of the agreement, the United States will save approximately $1.8 million in indexation. On the other side of the ledger, with the $126 million in full faith and credit capital and economic development funds, the NMI will be able to enter the capital markets to front-end load its capital development projects.

As you can see, each provision supports the others. I would liken the agreement to an arch, remove one stone and the entire structure will fall.

The special representatives have recommended enactment of legislation that would implement the agreement. It was transmitted to the Congress by letter dated July 29, 1985. We recommend its enactment with one technical amendment changing the reference to "section 2" to "section 1."

Financial arrangements for the Northern Mariana Islands is an issue that presents this government with an opportunity to make new policy that better fits the circumstances of the 1980s and 1990s. We hope that the Congress will act positively on our recommendations.

Senator WEICKER. Rick, the Senate Appropriations Committee has taken the position that fiscal year 1986 assistance to the CNMI shall be subjected to the new agreement. Do you support this position? And do you believe the agreement can be effectively implemented without congressional enactment of Senate Joint Resolution 192?

Mr. MONTOYA. It could be, Mr. Chairman, but I would prefer to have a vote of confidence from the Congress. This is a document that reflects U.S. policy regarding its newest family member. It is important for us to have approval clearly expressed.

Senator WEICKER. The new financial assistance agreement with the Northern Marianas Islands specifically disallows the transfer of previously appropriated funds, yet section 2 of H.R. 2478 would authorize such a transfer. How does the Department reconcile these two provisions?

Mr. MONTOYA. First of all, I was quite concerned when I saw the transfer being used in the past. We had about $12 million in the Economic Development Loan Fund. The Governor declared a state of emergency and, as I understand it, $2 million was transferred into government operations, specifically, I believe, for the purchase of fuel oil, or fuel for the powerplant.

Again, the new covenant financial agreement is based on making sure that we have set amounts. The EDLF has become a part of the new community development authority. They are tracking those moneys, and therefore I think it's essential that these transfers not be allowed.

Senator WEICKER. Can you provide any comments on H.R. 2478 as it's expected to pass the House today?

Mr. MONTOYA. Yes, sir. Do you want me to go through the laundry list of them?

Senator WEICKER. No, just those salient points which you feel are worthy of comment.

Mr. MONTOYA. Going back to my tenure in State government, I know that initiative, referendum, and recall are important to good government; so we would very much support that provision.

On the covenant funding agreement——

Senator WEICKER. Why don't I do this. Why don't I go over a couple of sections here and let you just go ahead and give a brief comment. Maybe that would be an easier way to do it. If there is anything that I leave out, you go ahead and comment.

Section 1 would authorize the people of the Virgin Islands to make laws by initiative and recall officials.

Mr. MONTOYA. We agree, and we feel it's a good idea.

Senator WEICKER. Two would authorize the Northern Marianas Islands to reprogram appropriations for its economic development loan fund to capital improvements needed for economic development.

Mr. MONTOYA. We prefer to stay with the agreement that has been signed by both of the special representatives.

Senator WEICKER. Three would clarify that American Samoa, Guam, and the Virgin Islands have full concurrent jurisdiction over Federal property in those territories.

Mr. MONTOYA. We have no objection to that, sir.

Senator **Weicker**. And four would authorize funds for completion of the Eastern Caribbean Center proposed in the President's Caribbean Basin Initiative.

Mr. **Montoya**. I have a concern, Mr. Chairman. There is a sum of money that is on the table right now which has not been used. Therefore, we would oppose that provision at this point.

Senator **Weicker**. Five would authorize Guam law to determine how the territory's schools are administered.

Mr. **Montoya**. Mr. Chairman, as you could hear from the Guam delegation, there is a lot of interest on that issue by both the legislature and the executive branch. I feel it is a local issue that can best be resolved at the local level.

Senator **Weicker**. Six would require the Secretary of the Interior to submit to Congress options developed in consultation with the Governor of the Virgin Islands for the future use of Water Island.

Mr. **Montoya**. We support that, sir.

Senator **Weicker**. Seven would authorize American Samoa, Guam, and the Northern Mariana Islands to participate in the Justice Assistance Program as a single State.

Mr **Montoya**. We would probably have no objection, but we are a little concerned with the kind of budgetary impact it might have.

Senator **Weicker**. Eight would authorize smaller insular areas to participate in the Hunter Safety Program as they participate in the Federal aid and wildlife restoration programs.

Mr. **Montoya**. Again, we don't anticipate any objection, but we are concerned about the budgetary impact.

Senator **Weicker**. And could you provide to the committee the budgetary impact of sections 7 an 8?

Mr. **Montoya**. Yes, sir.[1]

Senator **Weicker**. Rick, as I gather when Ben Blaz testified, he indicated that because of the concern with the situation in the Philippines, there might be some delay on this business of returning the land to Guam in whatever form, either to individuals, to the government, or whatever. Are we going to have a delay in this matter? What's going on, in other words, at this juncture?

Mr. **Montoya**. Well, the most encouraging——

Senator **Weicker**. I gather everybody's agreed to what ought to be done. Is there some holdup at OMB? Is there some holdup at Defense? What is the status here?

Mr. **Montoya**. The status is that it is a complicated issue that has many players—Interior, Defense, and the General Services Administration. Public law controls disposal of excess property. This is a unique issue in that it deals with property that was purchased immediately after World War II.

It has become clouded by the issue in the Philippines. The Department of Defense may wish to preserve its options. But this is largely an issue separate from the issue of excess military property on Guam.

Given that type of explanation, I requested that Wayne Arny, Deputy Assistant Secretary, who handles this issue for the Navy go to Guam and talk with the leadership, including the base commander and CINCPAC in Hawaii, to find out specifically what parcels of land were part of contingency planning or contingency needs for the Department of Defense. Those that could legitimately be turned back over to either the Government of Guam or to the former private owners should be clearly defined.

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[1] The committee did not receive the requested information.

That is the report I understand is in the process of being finely tuned and presented to Interior, GSA, and the Department of Defense.

Senator WEICKER. Within what timeframe?

Mr. MONTOYA. I would say that it will be within the next 3 to 4 weeks, Mr. Chairman. I was advised that the Navy is saying within the next 2 weeks; I would feel more comfortable saying within the next 4 to 6 weeks. [Laughter.]

Senator WEICKER. I think we would all agree that we certainly can't rely on a resolution of the problems in the Philippines to determine what needs to be done on the Island of Guam. I mean, that may go on for years—for years. And I think that the testimony of Ben and the others from Guam certainly leads me to believe that we ought to conclude this chapter insofar as our relations with Guam are concerned at the earliest possible moment. And I commend you, I might add, for sending your assistant out there to make the determinations vis-a-vis any contingency plans, but I also think now the time has come to find out what the response is.

I would hope that this will be done within the 3- to 4-week period.

Mr. MONTOYA. Mr. Chairman, it's important to note that the official position of the administration is, of course, that we support the Philippines, and we don't anticipate any change in status there. I think Congressman Blaz eloquently pointed this out.

I feel comfortable that we are going to have a clear definition of those lands that might be needed for contingency needs of DOD, and that others will be identified as being available for return to Guam—be that the Government of Guam, or the previous owners.

Senator WEICKER. Well, let me say this, that I would request of you, an official request of this committee, that that report be in the committee's hands certainly no later than the reconvening of the Congress in January.

Mr. MONTOYA. I don't see that as a problem, Mr. Chairman.

Senator WEICKER. I have no further questions. That being the case, I thank you very much, Mr. Secretary, for appearing before the committee.

The committee will stand adjourned.

[Whereupon, at 11:11 a.m., the committee was adjourned.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

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December 3, 1985

The Honorable James A. McClure
Chairman, Committee on Energy
and Natural Resources
358 Dirksen Senate Office Building
United States Senate
Washington, D.C. 20510

Dear Senator McClure:

At the request of the signers of the enclosed letter, who own land on Guam, I am transmitting the letter and two press clippings for inclusion in the record of the December 3, 1985 hearing on issues relating to Guam.

Sincerely,

Lynda S. Mounts
Lynda S. Mounts

Enclosures

November 29, 1985

Delegate Ben Blaz
1729 Longworth HOB
Washington, D.C. 20515

Dear Delegate Blaz:

On Tuesday evening, October 15, 1985, at the Agat Community Center, the audience cheered when you made a commitment to seek the return of the surplus military land to the original land owner or the heirs. We were grateful and satisfied that your integrity as an American general and your stature as the Washington delegate for Guam would at last bring about an honorable solution to the 40-year old problem of military land taking, fair and just compensation, and the direct return of the excess military land to the original land owner or heirs and NOT to the Government of Guam, or some vague allusion to the "people of Guam" which would obscure the intent to return the land directly to the rightful owners.

Our position is clear. We want fair and just compensation, and the return of excess military land to the original owner or heirs. We vigorously oppose and condemn any and all attempts to cheat or defraud the original land owners of their right to their land through any maneuver or semantics to circumvent the right of the original owner to his property through the Government of Guam's or the federal government's sale of our land to the highest bidder.

We find it morally repugnant, unjustifiable, and offensive that through some fancy maneuvering or semantics our land would end up as part of the property of rich foreign corporations on Guam which would continue an even more despicable exploitation of the Chamorro landowners.

As you know, Barrigada Heights ended up somehow as the property of Hyundai Corporation of Korea when the intended use of this land was for the land owners who were evicted from Radio Barrigada because of theU. S. Navy's need for the land. It was a travesty of justice, of course, but it happened. This tragic exploitation will happen again because there are not very many of the original losers of land who can successfully bid against multinational, multimillion dollar corporations if the sale of their land is put up for auction.

The repeat of the Barrigada Heights maneuver is so repulsive to us that we would rather have all the federal agencies and departments of the United States delay the return until such a time as this excess federal property may be returned directly to the rightful owners and honorably disposed of.

On the front page of the Pacific Daily News, April 10, 1985, the Fujita Corporation of Japan is planning a $145 million "resort complex deseigned for burned-out sophisticated executives." A corporate adviser said that "he was aware that the federal land on the Cliffline (above the Tumon Bay hotel area) would be turned over to the Government of Guam in the near future and hopes that the local government will assist his corporation in building the complex on the land."

We find any and all attempts to cheat and defraud the original landowners through federal or Government of Guam, or the federal and Government of Guam collusion as inherently evil.

Returning the surplus land to the original owner will not impede or preclude the economic development of Guam. On the contrary, the owners could also participate, contribute, and enjoy the economic development of his own land as well as the foreign investors.

Because of the political unrest in the Philippines, perhaps the federal government should keep whatever excess military land it now has to meet the contingency defense needs of the United States until such a time as the federal government can return it directly to the original land owners who did not have the the American right of "due process of law" when the U.S. Military took their land, and at a time when the Chamorro people were not even out of the trauma and rubble of a very brutal war not of our making.

Return the land to the Government of Guam, if in deed it was the original owner of that land. We have no objection to that.

We feel that perhaps the injustice done against the Chamorro people were the result of the exigencies of World War II, but it is now time to stop making lame excuses about how difficult it is to correct the historical injustice done against us, and stop the continuing exploitation of our people. We, as Chamorros, have contributed disproportionately more to the national defense and security of the U.S. than most of the average Americans in the continental United States.

Because of the contingency defense needs of the U.S. as the result of the volatile political situation in the Philippines, the federal government should release only absolute necessity land needs of the Government of Guam. The United States is morally and in conscience obligated to protect the rights of the land owners from further exploitation.

For centuries, our destiny as a people have been decided in places thousands of miles away, Madrid, Tokyo, and Washington D. C. It is truly unfortunate that hearings in Washington could be attended only by rich individuals, or government officials. Washington should make an effort to hear from the people who can not afford to go to make their concerns known.

We are grateful and we are counting on the fact that you made a commitment to work for the return of excess military land to the original landowners.

Thank you for your cooperation and we would like to submit this telegram as our testimony in the congressional hearings in Washington on December 3 and 5, or whenever or wherever the hearings are regarding land taking, or excess military land on Guam.

Yours truly,

Tony Artero Sablan
Jesus S. Camacho
Maria T. Franquez

Tony Artero Sablan
Jesus S. Camacho
Maria T. Franquez

STATEMENT OF FROILAN C. TENORIO
RESIDENT REPRESENTATIVE TO THE UNITED STATES
FOR THE NORTHERN MARIANA ISLANDS

HEARING ON S.J.RES. 192

BEFORE THE COMMITTEE ON ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE

DECEMBER 3, 1985

Mr. Chairman and Members of the Committee:

It gives me great pleasure to offer comments on S.J.Res. 192, a joint resolution to authorize financial assistance for the Northern Mariana Islands and to otherwise provide for the continuation of our young constitutional government.

This bill marks another milestone in the history of the relationship between the people of the United States and the people of the Northern Mariana Islands--the end of the initial period of guaranteed multi-year financial assistance and the authorization of another such period based on the experience of the past seven years.

Frankly, Mr. Chairman, our people anticipated that by the time this milestone was reached, the union of our two peoples would have already been concluded and our people would have already become American citizens. It is my hope, as I am sure it is yours, that this will be the last year that my testimony

Pacific Daily News

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A Gannett Newspaper

VOL. 16 NO. 68 AGANA, GUAM, APRIL 10, 1985

Hafa Adai, it's Wednesday

35¢ on Guam

Nieves M. Flores Memorial Library

ITC developers propose resort

By YOUNGSOO CHANG
Daily News Staff

A Japanese investor hopes to build a $156 million resort complex here and is asking the governor to help identify land for the major investment.

The Fujita Corporation, owner and operator of the Guam Reef Hotel and the Guam International Trade Center, wants to sell the GITC Building and invest the money in the new resort development, said the corporation's adviser, Yoshikiyo Wada, yesterday.

Wada estimated that the landmark Tamuning building would cost $28 million to build today.

Wada said the corporation will offer the Guam Economic Development Authority the chance to buy and operate the GITC Building at the GEDA board meeting today.

Wada said the company is eyeing the Harmon cliffline as the possible site for the resort. He said the development would be targeted toward more mature, sophisticated tourists, with a 300-room hotel, an 18-hole golf course, a traditional Chamorro village and a culture center. He said it would employ hundreds of local residents.

The Japanese adviser said he was aware that the federal land on the cliffline would be turned over to the government of Guam in the near future and hopes the local government will assist his corporation in building the complex on the land. The first choice was the old Guam Memorial Hospital area, but it was too small he said.

Gov. Ricardo J. Bordallo said in a press release, "The Fujita Corporation has long been here with us, through good and bad economic times, and I am very enthusiastic about a development project on this scale."

The complex is designed for burned-out sophisticated executives who are looking for a tropical place to thoroughly relax and soak up a bit of the traditional culture of the island.

Video lottery's debut a surprise

By KATE POUND
Daily News Staff

Video lottery machines have arrived on the island for a test run, to the chagrin of the Guam Gaming Commission and vocal opposition from local amusement machine owners.

Guam Productions Inc., operator of the Guam lottery, installed two of the games last Wednesday at King's Restaurant and Lounge in Tamuning. The games, however, have not been fully approved by the gaming commission and the commissioners were surprised to find them on the island.

The games were set up merely as a test run, said Simon Sanchez, spokesman for Guam Productions.

He had made a mistake in not notifying the commission as soon as they were set up, but he had wanted to wait until the machines were working completely and could show the commission their full operation, he said.

"We wanted to show you one in action," he said.

Please see LOTTERY, Page 4

GPA board member asked to resign

By MARGARET SIZEMORE
Daily News Staff

An officer of the Guam Power Authority board of directors turned in his resignation during an executive session last night at the request of Gov. Ricardo J. Bordallo.

Board secretary David Sablan said an emmisary of the governor notified him of the [illegible]

What Guamanians get for being loyal

3/15/84

Voice of the People

This is another view in reference to Mr. James Miles' letter on Friday, March 9, regarding Mr. Paul Bordallo's and Sen. Santos' reflections on growing sentiments among Guamanians. Mr. Miles accused Mr. Bordallo and Sen. Santos for advocating an armed insurrection. On the contrary, the two gentlemen merely gave their reflections and opinions regarding the present growing sentiment among the Guamanian population. After all, what does a Guamanian get for being a "proud U.S. citizen" and "most patriotic American?"

1. He cannot vote for the U.S. president.
2. His representative cannot vote in the U.S. Congress.
3. Federal law restricts local government initiatives and private sector growth.
4. The U.S. cuts funding and tells him to shape up when he is tied to federal restrictions.
5. The U.S. gets his land for military use and requires him to go through years of legal entanglement to get his money's worth.
6. Private land that the U.S. military is not using and might plan to use in the future is simply put under restriction.

I could go on and state more reasons for searching for a dual citizenship that would at least give Chamorro people an equal footing in this area. If Mr. Miles thinks that dual citizenship is crap, then patriotism is a bigger crap. There may be more overwhelming reasons for joining the U.S. armed forces, such as money, benefits and security.

Mr. Miles goes on to suggest that if the U.S. military pulls out and federal aid ceases, it would be disastrous. First of all, the U.S. military cannot and will not pull out of Guam unless the U.S. loses in the Third World War. Guam plays too major a role in the U.S. military to be left to fend for itself. The United States cannot afford to cease total federal fund from its "colony" in the eyes of the world. It might be surprising for Mr. Miles to realize that the U.S. needs Guam as much as Guam needs U.S. aid. The need is mutual. However, the trend is changing. While U.S. is losing its bases, Guam is finding new sources of funds.

Mr. Miles also implied that there is minority among "us" who would sell out to the communists. Guamanians do not advocate communism, or want to be Japanese. They might not even want to be Americans as Mr. Miles suggested. They just want to be Guamanians best of all and be respected for it. It is very possible to be non-communist or non-American and live a normal life. The people of Nauru and other Pacific Island nations are not communists, or Japanese, nor are they Americans. The Islanders do not have to march to the beat of communist drums or bow down to Japanese. We could be Guamanians, Saipanese, Palauans, Marshallese, Yapese, and whatever the Pacific islanders choose to be and raise whatever color flags that fit our fancy.

Chamorro people are only asking for fair and equal treatment from the U.S. government in the following areas:

- Fair compensation for military land use in Guam (Compare the $100 million paid to Marshallese annually for Kwajalein base to about $40 million for total settlement in Guam).
- Access to and permission to develop private land not used by the military.
- Lifting of federal regulations that restrict local government initiatives and private sector growth.
- Guamanians to be equal citizens like the rest of Americans or be give a choice of status.

All these could be accomplished by a little change of attitude as Mr. Bordallo suggested. Guam may be a "significant part of the American dream" as Mr. Miles suggested, but it is home to Guamanians. The present situation is awakening reality to the Chamorro people.

It is an irony that the Constitution of the United States that guaranteed Mr. Miles' right to express his opinion is closing one eye to "second class" citizenship of Guamanians.

Mr. Miles, rest assured that the present situation does not include communism, China, Japan, or the Soviet Union in the picture. It is a simple cry by a group of people who have been mistreated and taken advantage of for years after they have shown their "patriotism"
and their willingness to be part of the United States of America.

People all over the Pacific area are beginning to question their attachment to the United States and Guam is no exception. To brand it as communism or advocacy for armed insurrection is most insensitive and callous. It is, after all, a U.S. policy that involves the lives of Pacific islanders. That includes Guamanians and should be approached in a sensitive and understanding manner. Calling names and branding people may be guaranteed by the United States' Constitution, but it is not acceptable in this part of the world.

Wake up, America. The dawn has come to the Pacific and the "dream" is over. Let us live together as people respecting one another.

Belhaim Sakuma

P.S. A little change of attitude goes a long way.

A matter of policy

On behalf of the Guam Employers Council and the Guam Contractors Association, I'd like to thank you for your strong editorial support of a plan to place federally assisted contracts with U.S. employers.

American companies — and their employees — will compete anywhere, anytime with anyone, and they will prevail when the rules are applied evenly and equally. We hope to stop the kind of unfair competition that is driving the U.S. contractor out of the Pacific.

The next step in that struggle is to take our case to Congress, and your editorial of March 8, "U.S. preference law can help us" will be part of the testimony we will present in Washington next week.

If the Defense Department can enforce such a policy on a British possession in the Indian Ocean, then we should have a similar policy on Guam, U.S.A.

Bill Gibson

will have to carefully avoid the use of the word "commonwealth" in connection with our political status.

S.J.Res. 192 would give force of law to the agreement concluded between the special representative of the President of the United States and the special representatives of the Governor of the Northern Mariana Islands. Although I support the overall funding level which would be authorized in the Joint Resolution, I have serious reservations regarding the timing of the various payments, the substance of the agreement and the appropriateness of its ratification by the Congress. For that reason, I have prepared substitute legislation which I urge you to consider in lieu of the present text of S.J.Res. 192.

In addition, given the many years during which our islands have remained in an interim status, and the indefinite date of any change in that status, I have included several provisions for your consideration which would ameliorate many of the problems we are facing as almost-Americans. These include a recitation of our right to enter, reside, study, and work in the United States, extension of land grant status to our college, and a resolution of recent difficulties regarding our efforts to develop the private sector of our economy through Tariff Headnote 3(a).

Section 902 of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United

States of America (approved by Public Law 94-241) includes a requirement that special representatives of the President and the Governor be appointed "to consider and to make recommendations regarding future multi-year financial assistance to the Northern Mariana Islands pursuant to section 701, to meet at least one year prior to the expiration of every period of such financial assistance." Please note that the requirement is for "recommendations," not an agreement.

The only recommendation which I can find in the document executed by the special representatives is that the Covenant be amended as provided in the S.J.Res. 192. However, neither the recommendation nor the legislation recites the terms which will govern the financial relations between the two governments. Instead, they incorporate by reference the so-called agreement itself. Not only is this circular reasoning, but it constitutes an overextension of legislative power to the Executive and gives legal sanction to an extra-legal agreement.

Neither the Covenant, nor the Constitution of the Northern Mariana Islands, nor any local law gives the Governor or his representatives the power to conclude an agreement of this sort with the United States. Even if there exists some sort of inherent power to conclude strictly Executive agreements, this particular agreement would unlawfully bind the Northern Mariana Islands Legislature as well. By excluding the Legislature from the procedure, the agreement circumvents the Constitutional processes chosen by the people of the Northern Mariana Islands.

Under Article IV, Section 3, Clause 2, of the United States Constitution, the territories are the exclusive domain of the Congress. The Congress reserved this right to itself when it approved section 105 of the Covenant, which includes the provision that "The United States may enact legislation in accordance with its constitutional processes which will be applicable to the Northern Mariana Islands...." (emphasis added). The official Section-by-Section Analysis of the Covenant, adopted by the Marianas Political Status Commission to explain the meaning of the Covenant to the people before our plebiscite, states explicitly that your power under Article IV was contemplated, rather than rule by Presidential or Secretarial order.

It follows then, that the Congress, in the proper exercise of its Constitutional authority, should legislate the terms under which financial assistance will be granted and guaranteed to the Northern Mariana Islands, and not abdicate such matters to the Executive. For that reason, the substitute which I have submitted considers the entire "agreement" of the special representatives to be their recommendations. These recommendations are entitled to serious consideration by the Congress, but they are not an agreement to be ratified by reference. The substitute specifies within its four corners what assistance will be granted, when and how such assistance is to be provided, and the terms and conditions under which it will be received. Only minor administrative matters are left to decision by the Executive Branch.

In most cases the substitute follows the recommendations of the special representatives; in some cases, for reasons which will become apparent, it does not. In any event, I urge the Committee to legislate its will directly and in full, without reference in law to what amounts only to a recommendation.

Unlike the recommendations, the substitute does not amend the Covenant. First of all, the Covenant itself does not provide for its amendment. Second, its quoted text was approved by Public Law 94-241, not enacted separately as a law the text of which can be changed at the will of the Congress. If you want to amend the public law, all that is amendable is the resolving clause. Everything else is in quotes and accurately states what was approved. An attempt to amend the quoted text, if enacted, would make the amended law state a falsehood, that the Congress approved a different Covenant than that voted on by the people of the Northern Mariana Islands.

It seems to me far better to retain the text of the Covenant intact as an historical document and pass laws to implement or expand upon it, rather than to amend it in this manner. As stated above, the United States has the power to "enact legislation...applicable to the Northern Mariana Islands."

Direct amendment should require that the new language be voted on by our people, or at least be approved by our Legislature under our Constitution. In that way, the basic relationship between our two peoples will remain based on free will and be seen as such by the world at large.

The agreement of the special representatives contains the following headline policy statement "...the people of the Northern Mariana Islands will be best served by promoting economic development, lessening dependence on Federal financial assistance for government operations, and reducing the size of government." I couldn't agree more. Both the representatives' recommendations and the substitute measure which I offer today provide for profound reductions in Federal assistance for the operations of our young government. While this reduction will be very difficult for us to accomplish, I am convinced that it is a necessary step toward financial responsibilities and self reliance.

At the same time I don't believe that the negotiations policy statement is intended to contradict the United States' commitment contained in section 701 of the Covenant itself to "...assist the Government of the Northern Mariana Islands in its efforts to achieve a progressively higher standard of living for its people as part of the American economic community and to

X X X X X X X

amount of Capital Improvement Program and Economic Development funds each year and reduces grants for Government Operations on a straight line basis.

2. Maintenance of the fundamental provisions of self-government guaranteed in the Covenant by requiring appropriations by the Northern Mariana Islands Legislature before any money is obligated or expended by our Government.

3. Further protection of self-government by retention of the right of the Northern Mariana Islands to choose its own governmental structure and institutions and to establish its development priorities.

4. Emphasis on the role of the Congress in the oversight of activities under the Covenant and retention of the President as the official point of contact.

5. Addition of local and U.S. preferences in the procurement of construction of buildings and public works projects paid for with U.S. financial assistance, together with a training program for local workers.

6. A requirement for a balanced budget, liquidation of prior deficits, and a reversal of the recommended emphasis on long-term deficit financing of capital improvement projects.

Mr. Chairman, in the past seven years we have seen the growing pains one might expect from attempts to move from a dependent status to one of self-government. This great exercise in democracy should not be undercut by the inappropriate mechanisms for financial assistance recommended by the special representatives. Instead, the substitute will provide for fiscal restraint under the oversight of the Congress and will continue our relationship on the basis of mutual trust and consent. I urge its adoption by the Committee and by the full Senate.

Thank you, Mr. Chairman.

SUBSTITUTE FOR S.J.RES 192 PROPOSED BY FROILAN C. TENORIO
RESIDENT REPRESENTATIVE TO THE UNITED STATES
FOR THE NORTHERN MARIANA ISLANDS

99th Congress
1st Session ______________________

S.J.RES. ______________

IN THE SENATE OF THE UNITED STATES

____

____

____ introduced

the following joint resolution, which was referred to the

Committee on ______________________________________

____

JOINT RESOLUTION

To authorize financial assistance for the Northern Mariana Islands, and for other purposes.

Whereas, Section 902 of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (hereafter referred to in this Resolution as "the Covenant"), approved by the Joint Resolution of March 24, 1976 (P.L. 94-241; 90 Stat. 263), provides for regular consultations between the Government of the United States and the Government of the Northern Mariana Islands on matters affecting the relationship between them; and

Whereas, special representatives of the Governor of the Northern Mariana Islands and of the President of the United States have met to consider future multi-year financial assistance to the Northern Mariana Islands under section 701 of the Covenant and have made a report and recommendations regarding such assistance as required by section 902 of the Covenant; and

Whereas, pursuant to section 704(d) of the Covenant, payments of financial assistance continue at the annual level listed in section 702 of the Covenant until Congress appropriates a different amount or otherwise provides by law; and

Whereas, nearly ten years have passed since Congressional approval of the Covenant, and the continuing interim status of the Northern Mariana Islands requires that special provisions be made to reduce the negative impacts of the long wait for full commonwealth status, now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

That, the direct multi-year financial support to the Government of the Northern Mariana Islands required by section 701 of the Covenant shall be provided, and that necessary provisions be made to reduce negative impacts of the delay in achievement of full commonwealth status, and that necessary provisions be made to develop the economic resources of the Northern Mariana

Islands needed to meet the financial responsibilities of local self government, as set forth in this Resolution.

Section 2. (a) Adoption of this section by the United States Congress and approval by the President shall constitute a commitment and pledge of the full faith and credit of the United States for the payment, as well as an authorization for the appropriation, of $228 million at guaranteed annual amounts of direct grant assistance for the Government of the Northern Mariana Islands for an additional period of seven fiscal years as authorized by section 701 of the Covenant, after the expiration of the initial seven-year period specified in section 702 of the Covenant.

(b) The guaranteed annual amounts referred to in subsection (a) of this section shall be provided according to the following schedule of payments:

Fiscal Year	Capital Improvement Programs and Economic Development	Government Operations	Total
1986	$ 8,466,000	$ 19,260,000	$ 27,726,000
1987	19,589,000	16,626,000	36,215,000
1988	19,589,000	15,492,000	35,081,000
1989	19,589,000	14,358,000	33,947,000
1990	19,589,000	13,224,000	32,813,000
1991	19,589,000	12,090,000	31,679,000
1992	19,589,000	10,950,000	30,539,000
Total	$126,000,000	$102,000,000	$228,000,000

(c) Upon the expiration of the seven-year period of guaranteed annual direct assistance provided in this section, the average annual level of payments authorized for such period shall continue until Congress appropriates a different amount or otherwise provides by law.

(d) Payment of financial assistance under this section shall be made according to a schedule developed by the Government of the Northern Mariana Islands consistent with applicable Federal regulations.

(e) Funds provided under this section not obligated or expended by the Government of the Northern Mariana Islands during any fiscal year will remain available for obligation or expenditure by that government in subsequent fiscal years for the purposes for which the funds were appropriated. All funds granted under section 702 of the Covenant remain subject to the provisions and restrictions under which they were granted, except that the reservation in subsection (c) of such section for small loans to farmers and fishermen and to agricultural and marine cooperatives shall no longer be required.

Section 3. (a)(1) Not less than eighty percent of the funds designated in section 2(b) of this Resolution for Capital Improvement Programs and Economic Development shall be allocated to capital improvement programs. The islands of Rota and Tinian shall each receive no less than a 1/8 share and the island of Saipan shall receive no less than a 1/4 share of the annualized funds allocated pursuant to this paragraph.

(2) Funds designated in section 2(b) of this Resolution for capital improvement programs and economic development which are not allocated to capital improvement programs pursuant to paragraph (1) of this subsection shall be allocated to loans for the development of the private sector of the economy.

(3) Any funds designated in section 2(b) of this Resolution for Capital Improvement Programs and Economic Development shall be deposited in one or more separate accounts in the Treasury of the Northern Mariana Islands immediately upon receipt and shall not be commingled with any other moneys or accounts. Any interest earned on such funds shall be deposited into an account established pursuant to this paragraph. No funds in any account established pursuant to this paragraph shall be obligated or expended except pursuant to appropriations of the Legislature of the Northern Mariana Islands or for any purpose other than for capital improvement programs or economic development. The types of projects which may be included in capital improvement programs financed by such funds shall be limited to those which comply with the definition of capital improvement programs contained in Northern Mariana Islands Public Law 4-49, 1 CMC 7303(g), or as agreed to by the Governor of the Northern Mariana Islands or his designee, consistent with any applicable local law, and by the President of the United States or his designee.

(4) Any repayment of principal, interest or other income earned as a result of any economic development loan made pursuant to the plan developed under subsection (b) of this section shall be deposited into an account established pursuant to paragraph (1) of this subsection and shall remain available for use for loans for the development of the private sector of the economy.

(c)(1) The Government of the Northern Mariana Islands, in consultation with the Government of the United States, shall develop a seven-year strategic plan for capital improvement programs within one year after the effective date of this section. Such plan shall provide for the establishment or improvement of essential infrastructure through capital improvement programs in the areas of power, water, sewers, roads, schools, airports, ports and harbors, the American Memorial Park, and other public facilities.

(2) The plan prepared pursuant to paragraph (1) of this section shall be approved in accordance with Northern Mariana Islands law and transmitted to the President of the United States. The plan may be amended, after consultation between the Government of the Northern Mariana Islands and the Government of the United States, in the same manner in which it was originally approved.

(c) The payment of federally-appropriated funds, backed by the full faith and credit of the United States, may be applied or directed by appropriation of the Legislature of the Northern Mariana Islands, but such application or direction shall not, for the purposes of 26 U.S.C. 103(h), be considered a guarantee of payment by the United States, either directly or indirectly, of any debt instrument issued by the Government of the Northern Mariana Islands or any instrumentality of such government.

(d)(1) Any contract for a project involving the construction, alteration, or repair of any building or public works financed by funds appropriated pursuant to section 2 of this Resolution shall be awarded to the responsible local contractor or, in the case of such a project with an aggregate contract price in excess of $2,000,000, to the responsible local or United States contractor whose responsive bid would result in the lowest cost to the Government of the Northern Mariana Islands, Provided: that sucn cost does not exceed the estimate of such government for such project by more than fifteen percent. At the request of the Government of the Northern Mariana Islands, the Government of the United States shall provide technical assistance on a reimbursable or non-reimbursable basis to support the development of such estimate.

(2) As used in this subsection, the term "local contractor" means--

(A) any individual who is a citizen of the Northern Mariana Islands, as such term is defined in section 24(b) of Public Law 98-213;

(B) any other individual who is a bona fide resident of the Northern Mariana Islands;

(C) any partnership, cooperative, or association, the majority of the members of which are individuals specified in clause (A) or (B) of this paragraph, and the controlling interest in which is held by such individuals; or

(D) any corporation organized under the laws of the Northern Mariana Islands which has its principal place of business in the Northern Mariana Islands, has directors at least fifty-one percent of whom are citizens of the Northern Mariana Islands as defined in section 24(b) of Public Law 98-213 and has voting shares at least fifty-one percent of which are owned by such citizens of the Northern Mariana Islands.

(3) As used in this subsection, the term "United States contractor" means--

(A) any individual who is a citizen of the Northern Mariana Islands, as such term is defined in section 24(b) of Public Law 98-213, or of the United States;

(B) any other individual who is a bona fide resident of the Northern Mariana Islands or of the United States (including its territories and possessions);

(C) any partnership, cooperative, or association, the majority of the members of which are individuals specified in clause (A) or (B) of this paragraph, and the controlling interest in which is held by such individuals; or

(D) any corporation organized under the laws of the Northern Mariana Islands or of the United States (including its territories and possessions) which has voting shares at least fifty-one percent of which are owned by United States citizens or citizens of the Northern Mariana Islands as that term is defined in section 24(b) of Public Law 98-213.

(4) It is the sense of Congress that at least sixty-five percent of the aggregate value of all materials and supplies used in projects described in paragraph (1) of this subsection, during the seven-year period of financial assistance provided in section 2 of this Resolution be mined, produced, or manufactured in the Northern Mariana Islands or the United States (including its territories and possessions).

(5) Any contract described in paragraph (1) of this subsection shall include provisions that the holder of such contract shall--

(A) to the maximum extent possible, employ residents of the Northern Mariana Islands; and

(B) to the extent that resident workers with the necessary skills are not available, provide a training program or on-the-job training with particular emphasis on the development of skills relating to operation and maintenance of machinery.

Section 4. (a) The Government of the United States, subject to the availability of funds, and at the request of and in cooperation with the Government of the Northern Mariana Islands, shall provide technical assistance for the improvement of government operations, such as (1) the development and operation of financial management systems, (2) the development of the plan required by subsection (g) of this section, (3) the promotion of government efficiency, and (4) the improvement of efforts by the Government of the Northern Mariana Islands to assist business development and marketing.

(b) The Government of the Northern Mariana Islands shall attempt, in good faith and to the maximum extent practicable, to attain and maintain the performance objectives and standards set forth in subsections (c) through (g) of this section and shall consult regularly with the Government of the United States regarding progress and achievements made in connection with such attempt.

(c) Not later than September 30, 1986, the Government of the Northern Mariana Islands shall determine the amount of any deficit incurred by such government for its operations through September 30, 1985. Such government shall set aside $2,000,000 from the funds received for the fiscal year ending September 30, 1986, and designated for Government Operations in section 2(b) of this Resolution. Such set-aside funds shall be expended only for the purpose of reducing such deficit. For each of the next six fiscal years, such government shall set aside a pro rata amount of such funds sufficient to satisfy the entire remaining amount of such deficit not later than September 30, 1992. Any funds set aside pursuant to this subsection shall not be available for appropriation for any purpose inconsistent with this subsection.

(d) For each of the seven fiscal years beginning after September 30, 1985, the Government of the Northern Mariana Islands shall supplement the financial assistance provided in section 2 of this Resolution not set aside pursuant to subsection (c) of this section with local revenues sufficient to pay the expenses of such government for such year. In the event that this standard is not fully achieved, and a deficit results in any such fiscal year, the amount of funds set aside for the following fiscal year pursuant to such subsection shall be increased by the full amount of such deficit.

(e) Not later than October 1, 1988, all public utilities owned or operated by the Government of the Northern Mariana Islands or any instrumentality thereof shall be fully funded, including current operations and any necessary debt service, through charges to the users of such utilities at rates not subsidized by such government. Nothing in this subsection shall be taken to mean that such government may not provide other forms of financial assistance to any of its residents or that such assistance may not take into consideration the cost of public utilities to such residents.

(f) The Government of the Northern Mariana Islands, within three months after the date of adoption of this Resolution, shall initiate a study and an implementation plan to ensure an actuarially sound, locally-funded pension system for such government. Such plan shall be fully implemented within two years, unless otherwise mutually agreed by representatives of such government and the Government of the United States based on long-term financial considerations and sound governmental management.

(g) Within one year after the date of adoption of this Resolution, the Government of the Northern Mariana Islands shall develop a comprehensive plan for the transfer to the private sector of selected functions currently operated by such government and thereafter, to the extent feasible and prudent, shall implement such plan pursuant to Northern Mariana Islands law.

Section 5. Of the amount designated for Government Operations for Fiscal Year 1986 in section 2(b) of this Resolution, it is the sense of Congress that approximately

$1,000,000 should be provided for operational start-up costs for the Commonwealth Health Center, subject to appropriations by the Legislature of the Northern Mariana Islands. After providing for such costs through such appropriations, any portion of such funds remaining unappropriated, or any such funds appropriated but not obligated within any time period stated in such appropriations, shall be available for appropriation for any purpose under Government Operations.

Section 6. In addition to other reports and audits required by the Government of the United States, the Government of the Northern Mariana Islands shall transmit to the Congress, as part of its annual budget justification, a report on the use of the financial assistance received pursuant to section 2 of this Resolution. Such report shall outline the achievements to date under each category of such financial assistance as designated in subsection (b) of such section.

Section 7. TRANSITIONAL IMMIGRATION RULE. (a) Citizen of Northern Mariana Islands. Any person who is a citizen of the Northern Mariana Islands, as that term is defined in section 24(b) of the Act of December 8, 1983, Public Law 98-213, (97 Stat. 1465), is considered a citizen of the United States for purposes of entry into, permanent residence, and employment in the United States and its territories and possessions.

(b) Termination. The provisions of this section shall cease to be effective when section 301 of the Covenant to

Establish a Commonwealth of the Northern Mariana Islands in Political Union With the United States, Public Law 94-241, becomes effective pursuant to section 1003(c) of the Covenant.

Section 8. LAND GRANT COLLEGE. (a) Section 506 of the Education Amendments of 1972, Public Law 92-318 (86 Stat. 235), is amended--

(1) by inserting ",the Northern Marianas College," immediately after "the College of Micronesia" in subsection (a);

(2) by striking out "Virgin Islands, Guam, American Samoa, and Micronesia" each place it appears in subsection (b) and inserting in lieu thereof "Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands (other than the Northern Mariana Islands)"; and

(3) by striking out "Guam, and an equal amount to American Samoa and to Micronesia" and inserting in lieu thereof "Guam, $3,000,000 to the Northern Mariana Islands, and an equal amount to American Samoa and to the Trust Territory of the Pacific Islands (other than the Northern Mariana Islands)";

(b) Section 5 of the Act of August 30, 1980, c.841, 26 Stat. 417 (the Second Morill Act), as added by section 506 (c) of Public Law 92-318 (86 Stat. 235) is amended by striking out "and Micronesia, and Guam" and inserting in lieu thereof "Guam, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands (other than the Northern Mariana Islands)";

(c) Subsection (c) of section 1361 of Public Law 96-374 (94 Stat. 1367) is amended by striking out "American Samoa and in Micronesia" and inserting in lieu thereof "American Samoa, the Northern Mariana Islands and the Trust Territory of the Pacific Islands (other than the Northern Mariana Islands)";

(d) Section 22 of the Act of June 29, 1935, c.338, 49 Stat. 439, as amended (7 U.S.C. 329), is further amended--

(1) by striking out "and Guam" wherever it appears and inserting in lieu thereof "Guam, and the Northern Mariana Islands";

(2) by striking out "$8,100,000" and inserting in lieu thereof "$8,250,000"; and

(3) by striking out "$4,360,000" and inserting in lieu thereof "$4,380,000".

(e) The first sentence of section 3(b)(2) of the Act of May 8, 1914, c.79, 38 Stat. 372, as amended (7 U.S.C. 343), is further amended by striking out "and Guam" and inserting in lieu thereof "Guam, and the Northern Mariana Islands".

(f) Section 10 of the Act of May 8, 1914, c.79, 38 Stat. 372, as added by section 1(i) of Public Law 87-749 (76 Stat. 745) and as amended (7 U.S.C. 349), is further amended to read as follows:

> The term "State" means the States of the Union, Puerto Rico, the Virgin Islands, Guam and the Northern Mariana Islands.

Section 9. DUTY FREE ENTRY OF GOODS FROM NORTHERN MARIANA ISLANDS. (a) In order to ensure that textiles, textile products, and other goods entering the United States from the Northern Mariana Islands shall continue to enter the United States free of duties and quotas so long as they do not contain foreign materials to the value of more than 50 percent of their total value, subsection (i) of General Headnote 3(a) of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended to insert the word "or" before the phrase "which do not contain foreign materials to the value of more than 70 percent of their total value".

(b) General Headnote 3(a)(i) is further amended by inserting the phrase "are entitled to enter the United States" immediately before the phrase "exempt from duty.".

Section 10. FISHERY CONSERVATION AND MANAGEMENT.

(a) Subsection 21 of section 3 of the Magnuson Fishery Conservation and Management Act, as amended (16 U.S.C. 1802 (21)), is further amended to read as follows:

> The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and any other territory or possession of the United States, except the Northern Mariana Islands.

(b) Paragraph (8) of subsection (a) of section 302 of the Magnuson Fishery Conservation and Management Act, as amended (16 U.S.C. 1852(a)(8), is further amended to read as follows:

> (8) Western Pacific Council. The Western Pacific Management Council shall consist of the State of Hawaii, American Samoa, and Guam and shall have authority over the fisheries in the Pacific Ocean seaward of such States. The members, including 7 appointed by the Secretary pursuant to subsection (b)(2) of this section (at least one of whom shall be appointed from each of the following States: Hawaii, American Samoa, and Guam). The Western Pacific Council shall also have a nonvoting observer who shall be appointed by and serve at the pleasure of the Governor of the Northern Mariana Islands.

Section 11. TUNA FISHERIES. (a) The Congress finds and declares the following:

(1) In the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (approved by Public Law 94-241, 90 Stat. 263 (1976), the United States agreed to assist in developing the economic resources of the Northern Mariana Islands for the benefit of the inhabitants of those islands.

(2) Tuna in waters adjacent to the Northern Mariana Islands are a valuable and renewable resource which can contribute to the food supply, economy, and health of the Northern Mariana Islands and of the Nation as a whole.

(3) Foreign fishing vessels catch substantial quantities of tuna in waters adjacent to the Northern Mariana Islands, but neither the Northern Mariana Islands nor the United States derive revenues from tuna caught by those vessels.

(4) Negotiation of an international agreement or agreements to conserve and manage tuna in the Western Pacific Ocean, including those waters adjacent to the Northern Mariana Islands, is in the best interests of the United States and the Northern Mariana Islands.

(b)(1) The Secretary of State shall, upon the request of and in cooperation with the Governor of the Northern Mariana Islands, initiate and conduct negotiations for the purpose of entering into one or more international fisheries agreements for the conservation and management of any highly migratory species of fish within the fishery conservation zone of the Northern Mariana Islands or any appropriate region that includes that fishery conservation zone. The Governor of the Northern Mariana Islands shall be entitled to designate an observer, who shall serve at the pleasure of the Governor, to attend those negotiations.

(2) All payments or other consideration received pursuant to any agreement concluded under the authority granted by paragraph (1) of this subsection and attributable to the taking of fish, or to the right to take fish, by the vessels of foreign nations within the fishery conservation zone of the

Northern Mariana Islands shall be paid to the Government of the Northern Mariana Islands.

(3) For purposes of this subsection, the fishery conservation zone of the Northern Mariana Islands shall be defined in relation to the Northern Mariana Islands in the same manner as the fishery conservation zone of the United States by the Magnuson Fishery Conservation and Management Act.

(4) For purposes of this subsection, the term "highly migratory species" means species of tuna which, in the course of their life cycle, spawn and migrate over great distances in waters of the ocean.

Section 12. SUBMERGED LANDS. (a) Subject to valid existing rights, the United States releases, relinquishes, and conveys to the Commonwealth of the Northern Mariana Islands any and all right, title, and interest it may have in submerged lands within the boundaries of the Commonwealth of the Northern Mariana Islands, to be administered in trust for the benefit of the people thereof.

(b) For purposes of this section,

(1) "submerged lands" shall include:

(A) all lands permanently or periodically covered by tidal waters up to but not above the ordinary high water mark as heretofore or hereafter modified by accretion, erosion, and reliction, and seaward to a line three geographical miles distant from the coastlines of the Northern Mariana Islands;

(B) all filled in, made, or reclaimed lands which were formerly lands described in subparagraph (A) of this paragraph; and

(C) all improvements on and natural resources on or within lands described in subparagraph (A) and (B) of this paragraph.

(2) "Covenant" shall mean the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, as approved by Public Law 94-241, 90 Stat. 263 (1976).

(c) There are excepted from the transfer made by subsection (a) of this section any and all submerged lands leased to the Government of the United States pursuant to sections 802 and 803 of the Covenant for so long as such lands are leased.

(d) Nothing contained in this section shall affect such rights, if any, the Commonwealth of the Northern Mariana Islands may have in the seabed and its subsoil, and their natural resources, more than three geographical miles distant from the coastlines of the Commonwealth of the Northern Mariana Islands.

(e) This section shall become effective on establishment of the Commonwealth of the Northern Mariana Islands pursuant to sections 101 and 1003(c) of the Covenant.

SECTION-BY-SECTION ANALYSIS TO SUBSTITUTE LEGISLATION PROPOSED BY FROILAN C. TENORIO RESIDENT REPRESENTATIVE TO THE UNITED STATES FOR THE NORTHERN MARIANA ISLANDS

PREAMBLE: Makes findings of the Congress. Refers to the agreement of the special representatives as their "report and recommendations," consistent with their charter under section 902 of the Covenant. Note is also taken of the delay of nearly ten years since approval of the Covenant by the Congress and of the need to make provisions to ameliorate the negative impacts of such a long delay.

RESOLVING CLAUSE: Asserts that through this legislation, the Congress, as opposed to the special representatives, will determine the provision of multi-year financial assistance to the Northern Mariana Islands. It clarifies that this is merely a new period of the same assistance already required in section 701 of the Covenant. The special representatives properly did not change section 701. The clause also indicates that provisions will be made to reduce the negative impacts of the delay in the change to full commonwealth status as promised in the Covenant.

SECTION 2: This section provides financial assistance to the Northern Mariana Islands for Fiscal Years 1986-1992.

Subsection (a) sets the total authorization for funding at $228 million and pledges the full faith and credit of the United States to the payment of these funds. This does not differ in any material respect from the recommendations of the special representatives.

Subsection (b) sets forth a schedule which differs in several major respects from that recommended by the special representatives. The totals are the same, however. The substitute keeps faith with the requirements of section 701 of the Covenant by changing the category of "Capital Development" to "Capital Improvement Programs and Economic Development." The assistance provided in category "Special Programs", which is not mentioned in section 701, is returned into the government operations category, with provisions for their use in section 4(f) and section 5. This treatment is particularly appropriate, since in the agreement $1 million of these funds is for operational start-up costs for the Commonwealth Health Center and the remaining $500,000 is for a pension plan study--also an operational item. The Northern Mariana Islands is allowed to determine the exact amount required for these purposes.

For Capital Improvement and Economic Development, the substitute maintains the funding level proposed by the special representatives for Fiscal Year 1986. For the remaining six years of the period, their recommendation jumps up, down, and then up again to a peak of $25.15 million in FY 1989, before resuming its decline. Considering that unobligated funds can be continued from year-to-year until used, the substitute recommends a constant funding level of $19.589 million over the six years, resulting in an identical total of $126 million for the seven-year term. This makes for better planning and does not get the people and the government used to unrealistically high funding levels, only to disappoint them once again.

For Government Operations, the substitute provides funding in FY 1986 identical to the recommendation of the special representatives for that category plus Special Programs which is eliminated as a separate category. For the following six years, their schedule calls for very small reductions in this category during the earlier years, followed by very large reductions toward the end of the period. Instead, the substitute provides a more easily absorbed straight line reduction over those years. The total of $102 million remains the same.

Subsection (c) of the substitute is similar in effect to the recommendations of the special representatives and the Covenant. It provides for the continuation of financial assistance after this new seven-year period until congress appropriates a different amount or otherwise provides by law. The recommendations, however, accomplish this by referencing the new payment schedule by amendment to section 704(d) of the Covenant. That section provides that "the annual level of payments in each category will continue...." This was appropriate for the Covenant, because there was no annual schedule in section 702. Instead there were fixed funding levels increased by a determinable inflation factor. As applied to the schedule, however, it is impossible to determine what funding level will continue.

The substitute recognizes that the actual authorization is for $228 million over seven years and that the schedule is only an administrative device for its payment. It therefore specifies that the average funding level over the seven years is to be continued in the absence of Congressional action to the contrary.

Subsection (d) expands upon the language recommended by the special representatives. It requires the Government of the Northern Mariana Islands to develop a payment schedule for receipt of the annual payments of financial assistance pursuant to applicable Federal regulations. The special representatives applied this only to the Government Operations category and were silent regarding the remainder of the funds.

Subsection (e) has the same effect as section 704(a) of the Covenant and the recommendations of the special representatives that unobligated funds remain available from year-to-year for their original purpose. However, the reservation of economic development loan funds for agriculture and fishing will no longer be required. This will permit unused funds which have accumulated in these categories during the initial seven-year term of assistance to be carried over and devoted to general economic development purposes.

SECTION 3: This section provides guidance for the use of financial assistance granted for Capital Improvement Programs and Economic Development (Capital Development in the recommendations of the special representatives).

Subsection (a) follows Covenant section 702(b) and the recommendations by reserving a one-eighth share each of Capital Improvement Program funds for Rota and Tinian and a one-quarter share for Saipan. At least 80 percent of the funds for Capital Improvement Programs and Economic Development must be used for CIP. Any remaining funds will be for economic-development and are targeted to the private sector of the economy.

Paragraph (3) of this subsection differs in several ways from the recommendations of the special representatives. It adds a provision that funds received for capital improvement programs and economic development must go into one or more separate accounts and not commingled in a single cash fund. Instead of freezing into law the current provisions defining Capital Improvement Project in Northern Mariana Islands Public Law 4-46, the substitute permits the definition to be established by agreement of the Governor (consistent with local law) and the President, or by their designees. This provides flexibility, does not violate self-government standards, and assures that both sides are in agreement on the broad categories of projects for which these funds may be used.

Neither the substitute nor the recommendations of the special representatives permits CIP assistance to be used for government operations, but the substitute complies with the Constitution of the Northern Mariana Islands by requiring that the funds be appropriated by the Legislature before they can be obligated or expended.

The recommendations require the establishment of a local revolving fund to receive "repayments of principal and interest" from revenue-producing projects" and to spend such funds on additional revenue-producing projects. This is a serious infringement on local self-government. First of all, with the privatization encouraged by this legislation, there should not be many revenue-producing projects and the conduct of additional proprietary activities by the government should not be further encouraged by this means. The substitute makes such revolving funds optional, leaving it to the Legislature to decide if these revenues should be used in the same program, other revenue-producing programs, or to finance capital improvement programs that produce no revenue at all.

Secondly, to the extent that they exist, it is unclear why revenue-producing projects should result in repayment of principal and interest instead of revenues such as fees, tolls, charges, etc. The use of capital improvement funds to finance construction or purchase of privately-owned utility-type projects should not be permitted. The substitute makes it possible for revenues from capital improvement projects to be devoted to operations of the project itself or devoted to other capital improvement as the Legislature may decide..

It is possible that the special representatives were thinking of economic development activities in the nature of loans to the private sector as "revenue-producing projects." The substitute requires the Legislature to reserve revenues and repayments of such funds for further private sector assistance.

Subsection (b) provides for the seven-year strategic plan for capital improvement programs recommended by the special representatives, adding airports and the American Memorial park to the stated list of programs. However, unlike the recommendations, the substitute plan will not attempt to manage the private sector of the economy. Also, instead of approval by the Secretary of the Interior, which destroys the very nature of commonwealth status, the substitute requires approval of the Northern Mariana Islands and consultation between the two governments.

As a practical matter this consultation will likely involve the Secretary of the Interior, should the President designate him for this purpose. The concept of self-government requires, however, that local development priorities be set locally. In addition, references in the recommendations of the special representatives to cost/benefit analysis have been eliminated. Not only would they greatly increase the cost of preparing the plan, but that type of analysis often applies the standards of a developed community and fails to recognize the intangible benefits of many projects in a less than fully cash-oriented economy.

Subsection (c) provides language similar to the recommendations of the special representativeS to assure the tax exempt status of revenue bonds issued by the Government of the Northern Mariana Islands. Particular mention is made of 26 U.S.C. 103(h), which might otherwise jeopardize such status.

Subsection (d) adds a new provision giving preference to bidders from the Northern Mariana Islands and the United States for construction projects funded from the financial assistance authorized in this legislation. The low local or U.S. bidder would be awarded the contract if its bid was not more than 15 percent higher than the Marianas government estimate for the project. Technical assistance is authorized for preparation of such estimates. In addition, it is declared to be the sense of Congress that at least 65 percent of materials used in these projects be of local or United States origin.

Such contracts must also include a preference for the use of local labor. To the extent that such labor is not available with the requisite skills, the contractor must provide a training program or on-the-job training.

SECTION 4: This section relates to funds provided for local government operations.

Subsection (a) incorporates the recommendations of the special representatives for technical assistance for operations with minor technical changes.

Subsection (b) relates to performance standards. Many of the provisions listed by the special representatives under this heading in their accommodations are not standards at all. For example, the requirement that the United States provide $100.5 million to the Northern Mariana Islands cannot be considered a performance standard to be met by the recipient government. Nor do biennial meetings have anything directly to do with performance. Also, the recommendations provide that the full faith and credit of the United States be conditioned on the "fulfillment" of the performance standards, an impossible requirement.

Unless the idea is to repudiate the full faith and credit provision, the payment of operations funds should not be made contingent upon precise compliance with these performance standards. This is especially true because many of the requirements are not "standards" at all but rather are political or policy decisions which are properly to be decided by the local government. The substitute favors instead high standards and a good-faith effort to meet the standards to the maximum extent practicable. Regular consultations with the United States are required in connection with this effort.

Subsection (c) adds a new section requiring the liquidation of prior years' deficits from government operations. Two million dollars of the FY 1986 operational grant must be set aside for this purpose, and one-sixth of the remainder reserved for the same purpose in each following year.

Subsection (d) adds a new provision requiring a balanced budget for each year in the period. If this balanced budget nonetheless results in a deficit from whatever reason, it must be liquidated in the immediately-following fiscal year through the set-aside method provided in subsection (c). Funds set aside under either subsection (c) or (d) will not be available for appropriation except to reduce the deficit.

Subsection (e) maintains the substance of the recommendations of the special representatives that government utilities recover their operational costs and debt service through unsubsidized user fees. Since the ultimate result will be the same, it eliminates as destructive of self-government the requirement locking into Federal law the current structure for setting rates and fees.

Subsection (f) provides for the pension study recommended by the special representatives, and is the same in nearly all respects. However, the requirement that leftover funds be restricted to technical assistance has been eliminated.

Subsection (g) provides for the planning and actual transfer of selected government functions to the private sector, as recommended by the special representatives. However, under their plan mere feasibility would be sufficient to compel privatization. The substitute, mindful of recent experience with the breakup of AT&T, adds the further requirement of prudence. The ultimate decision to privatize a government function must remain with the Northern Mariana Islands Legislature and not be subject to the threat of the impoundment of operations funds. This will permit consumer impacts and financial stability to be considered along with technical feasibility.

SECTION 5: This section takes note that $1 million of government operations funds for FY 1986 are for operational start-up costs for the new hospital center on Saipan pursuant to legislative appropriations. Funds not needed for such purpose, instead of remaining in limbo as recommended by the special representatives, will be available for other operational purposes.

SECTION 6: This section provides for the report on the use of financial assistance recommended by the special representatives. Language emphasizing deficit financing of capital improvement projects is deleted as imprudent. Achievements in the various categories of financial assistance are to be outlined. No special category is provided for the transfer of selected functions to the private sector, however, since this now comes under Government Operations.

OTHER DELETIONS: Like the Covenant, the substitute does not require that appropriations be made to the Department of the Interior for further granting to the Northern Mariana Islands. Section 701 of the Covenant, in contradistinction to the recommendations of the special representatives, calls for "direct" financial assistance. If the Congress continues to fund this assistance as part of Interior's budget, that is its prerogative, but there is no need to deviate from Commonwealth principles in this Legislation.

The policy statement of the special representatives is not included, especially as it encourages deficit financing through long-term borrowing for capital development.

The separate paragraph requiring the Government of the Northern Mariana Islands to reduce reliance on Federal financial assistance for government operations by an average of $1 million per year is eliminated since the schedule in Section 2(b) provides for an even greater reduction.

The provision recommended by the special representatives to lock into Federal law the current local government structure contained in Northern Mariana Islands Public Law 4-49 is eliminated as violative of self-government.

The section recommended by the special representatives for settlement of disputes is eliminated. The Covenant already contains procedures by which disputes between the two governments may be resolved in Article IX. The special representatives' recommendation would make the operations funds provided under the Covenant subject to the impound control provisions of the Congressional Budget and Impoundment Control

Act of 1974. It would give the Secretary of the Interior the upper hand in settlement discussions by allowing him to withhold the operations funds granted to the Government of the Northern Mariana Islands. This would undermine the full faith and credit commitment of the United States to the people of the Northern Mariana Islands and would seriously erode the local self-government provisions of the Covenant. As the Northern Mariana Islands is without a voice in the Congress, such a provision would so imbalance settlement negotiations as to return the people of the Northern Mariana Islands to a dependent status with the Department of the Interior similar to that which prevailed prior to approval of the Covenant. The proper place to settle a dispute regarding what essentially is the will of the Congress is this Committee and its counterpart in the other body. The Executive Branch, as an interested party in such a dispute, should not be allowed to substitute its judgement for your oversight.

SECTION 7. Contains an interim immigration provision to clarify the rights of the people of the Northern Mariana Islands in the United States during the period prior to termination of the Trusteeship Agreement. A thorough examination of this problem may be found in the Second Interim Report of the Northern Mariana Islands Commission on Federal Laws to the Congress of the United States, Northern Mariana Islands Commission on Federal Laws, Welcoming America's Newest Commonwealth (August, 1985) at 209.

SECTIONS 8, 10, AND 11. These provisions designed to foster development of the economic resources of the Northern Mariana Islands needed to meet the financial responsibilities of local self-government and to compensate for the anticipated reduction in public employment in the Northern Mariana Islands which will result from the substantial decrease in federal assistance for operations of the local government. A detailed discussion of these proposals may be found in the Second Interim Report of the Northern Mariana Islands Commission on Federal Laws to the Congress, Northern Mariana Islands Commission on Federal Laws, Welcoming America's Newest Commonwealth (August, 1985) at 61, 114, and 172 respectively.

SECTION 9. This section is designed to remedy confusion over the status of manufactured goods from the Northern Mariana Islands entering the customs territory of the United States. The provision would ensure that goods from the Northern Mariana Islands which qualify under the provisions of General Headnote 3(a) would continue to enter the United States duty and quota free. This would clarify that such goods are not foreign products under the "country of origin" regulations of 19 CFR 12.130(b).

Testimony

of

SENATOR THOMAS V.C. TANAKA

Eighteenth Guam Legislature

before the

Senate Committee on Energy and

Natural Resources

December 3, 1985

Mr. Chairman and Honorable Members of the Committee:

Thank you for taking time to hear testimony on the return of excess federal lands on Guam to the Government of Guam. As you no doubt understand, it has been difficult for many Guamanians to understand why so much federal land remains vacant. The lands were condemned by the federal government some forty years ago to be used for national defense. They have not been so used. Many of our elders view what were once their family homes, farms, and ranches covered by weeds--good land now idle and unproductive. Rather than boosting our economy or providing food for our people, the land is wasted.

Passage of one of these measures and the eventual return of the land to Guam is vital to the continued development of Guam's private sector. Much of Guam's land--it's most valuable resource--is "untouchable" by those with the capacity to develop it. We favor return of these federal lands to productivity.

These lands have the potential for use in many differing ways. Land is needed for industrial parks. Many of us envision Guam with light industries employing many or as a transhipment center between the United States and Asia. Yet, land is not available in large enough plots to make these aspirations a reality.

The land could be used for agricultural purposes again. Once more Guam is becoming a farming community. There is substantial commercial production of fruits and vegetables. Many of the federal lands were once highly productive--rice, coffee, fruit, and vegetables were grown in enough abundance so that the island was self-sustaining. In addition, potential exists for export of produce to Japan and other Asian markets. But land is needed.

There is a severe housing shortage on Guam. Part of the land could be used for residential subdivisions for the landless and those who cannot afford new housing in private subdivisions. Guam Housing and Urban Renewal's government subdivisions have provided much needed housing, but available land is running out.

One of the uses which I envision for these excess properties is for facilities for our many U.S. veterans. Guam's veterans organizations have developed plans for construction of such facilities as a medical clinic, a retirement home, and a nursing/extended care home. Land for these is a fitting use for the property once taken to meet our country's military needs.

It is also fitting that part of the excess federal lands be used for the veterans of Guam. The island of Guam and our great nation has recognized the unwaivering loyalty of Guam's fighting men and women. It would be a fitting gesture on the part of the Federal Government and the local government to manifest our appreciation to our veterans by setting aside excess federal properties for their use.

The excess federal properties are needed by our people. We will use them well. Your favorable action on these measures is most deeply appreciated.

Thank you.

Testimony on Senate Bill 1441
by
Senator Edward R. Duenas
Minority Leader
18th Guam Legislature
December 3, 1985

Mr. Chairman and members of the Senate Committee on Energy and Natural Resources:

Hafa Adai and good morning to each and everyone of you here today.

First of all, let me express my deep appreciation for the invitation to testify at this public hearing on Senate Bill 1441, introduced by Senator James McClure. On behalf of my Republican colleagues in the 18th Guam Legislature and the people of Guam, we say to you, Senator McClure, S^4 Yuus Maase (thank you) for sponsoring this measure which, indeed, would have a tremendous impact on Guam, if enacted into law.

I certainly support the intent of this measure - - that is, to authorize the transfer to the Government of Guam available excess federal lands in the Territory. For more than a decade now, the leaders of Guam have been looking forward to the day when the federal government would relinguish excess lands that have gone unused, undeveloped or are no longer needed for defense or other federal purposes.

Let me tell the committee that shortly after Guam was liberated on July 21, 1944 from enemy occupation during World War II, there was a massive military build-up to convert the island as a staging area for the final assault against the Japanese homeland. This build-up led to the wholesale taking of privately owned lands, many of which were prime agricultural areas, so that huge military naval and air bases, ammunition dumps and supply depots could be built to support the war efforts in the Pacific theater.

Infinitely grateful for being liberated from enemy occupation, and fiercely loyal to the United States of America, our people willingly allowed the military to take whatever land it felt was necessary for its use. Of course, the people also believed that after the war they would be able to receive some, if not all, of the land back.

However, four decades have passed since the war ended, and to this day a number of owners whose properties were taken by the military for the war efforts still contend that their lands should be returned to them. That's why Senator McClure's bill and a similar measure (HR 2884) introduced by our own Delegate Ben Blaz in the House are tremendously important to Guam.

When you consider the fact that Guam is only about 205 square miles in land area, you can imagine how precious to us every square meter could be. And a good portion - - about one-third of the choicest areas - - is owned by the federal government.

I have no real qualms about the federal government owning thousands of acres of land on Guam if all of them are being put to good use or are serving a specific purpose. But when we see miles and miles of federal lands laying idle for more than 20 years with no apparent real plan for their use in the near future, it makes us wonder why the federal government should continue to hang on to them.

After all, these same properties were taken primarily for use in the war efforts in WWII. And the local people, particularly those affected land-owners, feel that excess federal lands should now be transferred to Gov-Guam for much-needed public use, and those not required for public use be eventually returned to the original owners.

Senator McClure's bill is a step in that direction. This measure, which we hope will be enacted, contains several important elements that we feel should be acceptable to all concerned.

First, it calls for the Government of Guam to develop a comprehensive plan to determine which federal lands are deemed excess, which are being presently utilized, and which may be needed for future use. Once determination is made those declared excess may be transferred to the local government. More specifically, the bill calls for the Governor of Guam to prepare and submit a plan to the Secretary of Interior for his review. The Secretary would then return the plan, with changes if any, to the Governor who would seek approval from the Guam Legislature. And since conformity to the use of the excess lands is required, I feel that some flexibility also be allowed for deviation from the original plan if justification is provided.

In the past, some federal properties have been turned over to the Government of Guam that are not in their highest or best use because of the restrictions contained in the transfer. We feel that provisions for change in use as the territory grows and develops is essential to the best use of these resources.

I applaud Senator McClure's bill for requiring legislative concurrence before the plan for use of the excess federal lands becomes final. Since Congress, through the Organic Act of Guam, has designated the Legislature as the policy-making branch of Gov-Guam, it is only proper that the Legislature should have a say-so in the plan, and not be left entirely up to the Governor to decide.

Although we gladly support the measure, we would like, however, to propose the following minor amendments which we hope would be acceptable to the committee:

(1) That a new section be added to the bill to require that all federal excess lands indicated in the plan be granted by deed to Gov-Guam. This is already proposed in Section 2 of HR 2884 which makes the transfer of excess lands mandatory. We feel more assured of receiving and retaining the property under this provision.

(2) Add a language to the bill that would not preclude Gov-Guam from returning excess federal lands to the original owners, if the government's long-range plan does not require retention of such properties. We believe that the measure should indicate that Gov-Guam may alienate the land it receives under the plan under certain circumstances. There are a number of local people whose lands were taken by the federal government and to this day remain landless. One of the uses that may be recommended by the government is to return some of the excess lands to the original owners or their survivors who will then put them back to productive use.

(3) Add a language to the bill to define "future need" under category 2. As we now see it, that category can be broadly interpreted to include non-essential needs that the military on Guam may claim in an effort to maintain its present land-holdings. We suggest that "future need" includes only the basic needs essential to the military mission.

In his letter of invitation, Senator McClure asked me for comments on HR 2884, introduced by our Delegate Ben Blaz. Upon close scrutiny, I find HR 2884 essentially the same in its intent as that of S 1441. But there are minor differences which I would propose to amend in my testimony before the House Committee on Interior and Insular Affairs. Here are some of my observations on HR 2884:

(1) As introduced, the bill makes no provision for legislative concurrence on the plan. We feel that there should be, as proposed by S 1441.

(2) HR 2884 addresses only DOD land, and not necessarily all federal excess properties on Guam, as proposed in S 1441. We feel it should address all lands on Guam.

(3) Like S 1441, HR 2884 also has three categories, one of which land to satisfy "future military need." Again, this category should be clearly defined to mean only basic needs essential to the military mission.

Mr. Chairman, thank you for this opportunity to provide my input to this committee on such measure of paramount importance to Guam. Once again, I salute Senator McClure for introducing S 1441 and for holding this public hearing expediously. And we hope that the committee would act favorably on this measure, taking into consideration the proposed amendments I discussed earlier on this testimony.

Si Yuus Maase and Hafa Adai.

STATEMENT
OF THE
HONORABLE VICENTE M. SABLAN
SPEAKER OF THE HOUSE OF REPRESENTATIVES
OF THE
FOURTH NORTHERN MARIANA ISLANDS LEGISLATURE

BEFORE THE
SENATE ENERGY AND NATURAL RESOURCES COMMITTEE
HEARING ON MULTI-YEAR COVENANT FUNDING (S.J.RES.192)
UNITED STATES SENATE
DECEMBER 3, 1985

STATEMENT OF SPEAKER VICENTE M. SABLAN
BEFORE THE
SENATE ENERGY AND NATURAL RESOURCES COMMITTEE
HEARING ON MULTI-YEAR COVENANT FUNDING (S.J.RES.192)

MR. CHAIRMAN, DISTINGUISHED MEMBERS OF THE COMMITTEE, LADIES AND GENTLEMEN:

I APOLOGIZE FOR NOT APPEARING IN PERSON TO PRESENT MY TESTIMONY, HOWEVER CERTAIN UNRESOLVED MATTERS REMAIN AFTER OUR NOVEMBER ELECTIONS WHICH REQUIRE MY PRESENCE IN SAIPAN. IN ADDITION, THE VIEWS OF THE HOUSE OF REPRESENTATIVES OF THE NORTHERN MARIANA ISLANDS ARE WELL REPRESENTED BY CONGRESSMAN GREGORIO C. SABLAN. HOWEVER, I DO WISH TO TAKE THIS BRIEF OPPORTUNITY TO MAKE MY VIEWS ON S.J.RES.192 KNOWN TO YOU.

IN MANY RESPECTS I BELIEVE THAT THE AGREEMENT OF THE SPECIAL REPRESENTATIVES ON FUTURE UNITED STATES FINANCIAL ASSISTANCE FOR THE NORTHERN MARIANA ISLANDS (AGREEMENT) SIGNED BY THE SPECIAL REPRESENTATIVE OF THE PRESIDENT OF THE UNITED STATES AND THE SPECIAL REPRESENTATIVES OF THE GOVERNOR OF THE NORTHERN MARIANA ISLANDS (NMI) ON JULY 10, 1985, IS AN AGREEMENT WHICH, IN MANY RESPECTS, IS FAIR TO BOTH SIDES. REALIZING THAT THIS IS NO SMALL ACCOMPLISHMENT, I COMMEND ALL OF THE NEGOTIATORS AND STAFF

FOR THEIR TIRELESS EFFORTS.

WHILE I DO NOT WISH TO DIMINISH THEIR SERVICE TO US, IT HAS BEEN MY EXPERIENCE THAT LEGISLATIVE COMMITTEES ARE NOT OVERLY CONCERNED WITH LAUDITORY COMMENTS. INSTEAD, THEY WOULD LIKE PROBLEMS OR DEFICIENCIES HIGHLIGHTED FOR APPROPRIATE CORRECTIONS IF THEY AGREE ON THE NEED FOR SUCH CHANGES. THEREFORE, I SHALL PROCEED DIRECTLY TO SOME CONCERNS I HAVE WITH REGARD TO THE AGREEMENT.

MANY OF THE IDEAS EXPRESSED IN THE AGREEMENT SOUND NOBLE AND OF UNIVERSAL APPLICABILITY. SURELY EVERY STATE GOVERNMENT IN THE UNITED STATES COULD PROFIT FROM "... PROMOTING ECONOMIC DEVELOPMENT, LESSENING DEPENDENCE ON FEDERAL FINANCIAL ASSISTANCE FOR GOVERNMENT OPERATIONS, AND REDUCING THE SIZE OF GOVERNMENT ..." YET THE FEDERAL GOVERNMENT DOES NOT IMPOSE SUCH REQUIREMENTS ON STATE GOVERNMENTS AS A CONDITION TO GRANTING THEM FEDERAL AID. HOWEVER, IN PART II, SUBSECTION 4, OF THE AGREEMENT THE FULL FAITH AND CREDIT OF THE UNITED STATES TO PAY THE ANNUAL AMOUNTS AGREED TO FOR THE OPERATIONS OF THE NMI GOVERNMENT IS CONTINGENT UPON NMI COMPLIANCE WITH ALL THE PERFORMANCE CONDITIONS ITEMIZED IN THAT SUBSECTION. ONE SUCH CONDITION IS TO BEGIN PRIVATIZATION OF MANY OF THE SERVICES AND FUNCTIONS OF OUR GOVERNMENT WITHIN ONE YEAR FROM THE EFFECTIVE DATE OF THE AGREEMENT. [SEE PART II,SUBSECTION 4(i) OF THE

AGREEMENT]. LET ME REITERATE, THAT WHILE SUCH GOALS ARE ADMIRABLE FOR ALL GOVERNMENTS, WHEN THEY ARE IMPOSED UPON US BY THE DEPARMENT OF THE INTERIOR THEY BECOME ALMOST OPPRESSIVE.

FURTHERMORE, THE AGREEMENT RESERVES THE RIGHT TO THE SECRETARY OF THE INTERIOR TO APPROVE OR DISAPPROVE A SEVEN YEAR PROPOSED PLAN FOR CAPITAL IMPROVEMENTS IN THE NMI. (SEE PART II, SUBSECTION 3(a) OF THE AGREEMENT). IT WOULD SEEM THAT THE PEOPLE OF THE NMI, THROUGH THEIR ELECTED LEADERS, SHOULD KNOW WHAT CAPITAL IMPROVEMENTS ARE NECESSARY TO DEVELOP THE INFRASTRUCTURE OF THE NMI. WE HAVE MADE EVERY EFFORT TO LIMIT OUR LEGAL DEFINITION OF WHAT CONSTITUTES A CAPITAL IMPROVEMENT SO THAT ONLY PROJECTS WHICH TRULY ENHANCE THE ECONMIC INFRASTRUCTURE OF THE NMI ARE FINANCED BY THIS TYPE OF COVENANT FUNDING. (SEE NMI P.L. 4-46, AATACHED AS EXHIBIT 1).

PLEASE DO NOT MISUNDERSTAND MY MOTIVES! I AM NOT SUGGESTING THAT WE HAVE NO REPORTING REQUIREMENTS. I BELIEVE THAT PART III, SUBSECTION 1 OF THE AGREEMENT, WHICH REQUIRES THAT WE REPORT TO THIS CONGRESS ANNUALLY, DURING OUR BUDGET HEARINGS, ON THE USE OF THE FUNDS MADE AVAILABLE TO THE NMI IN THE PRECEEDING YEAR, IS ADEQUATE AND APPROPRIATE.

ANOTHER AREA OF CONSIDERABLE CONCERN TO ME, IS PART III, SUBSECTION 2, WHICH GIVES THE SECRETARY OF THE INTERIOR THE

RIGHT TO DEFER THE FUNDING OF THE NMI IF ANY DISPUTES ARISE REGARDING THE NMI'S COMPLIANCE WITH THE PERFORMANCE STANDARDS CONTAINED IN THE AGREEMENT. I CONTEND THAT SUCH A DRASTIC MEASURE SHOULD NOT BE A PART OF THE AGREEMENT. UNDER THE LAW, THE ONLY RECOURSE FOR THE NMI WOULD BE TO COME BACK TO THIS CONGRESS AND ASK IT TO REVIEW AND HOPEFULLY OVERTURN ANY ARBITRARY DECISION BY THE SECRETARY. THIS PLACES AN INSURMOUNTABLE BURDEN ON OUR GOVERNMENT IN ORDER TO EXERCISE SUCH APPEAL AUTHORITY. HOW CAN WE REASONABLY EXPECT THIS LEGISLATURE TO ASSIGN A HIGH PRIORITY TO SUCH A PROBLEM, WHEN IT IS USUALLY CONSIDERING OTHER PROBLEMS AND LEGISLATION OF PARAMOUNT IMPORTANCE TO THE ENTIRE NATION, IF NOT THE WORLD? IF YOU MAKE NO CHANGES TO THE LEGISLATION IMPLEMENTING THE AGREEMENT, WE WILL, IN REALITY, BE FORCED TO: A) ACCEPT ANY DECISION BY THE SECRETARY REGARDING THIS MATTER, AS FINAL AND UNREVIEWABLE; OR B) SUSPEND THE OPERATIONS OF OUR GOVERNMENT UNTIL THIS CONGRESS CAN FIND TIME IN ITS BUSY SCHEDULE TO REVIEW OUR PROBLEM. I BELIEVE NEITHER ALTERNATIVE IS ADVISABLE NOR ACCEPTABLE.

ONE ITEM WHICH HAS BEEN OMITTED FROM THIS AGREEMENT, WHICH IS CONTAINED IN THE ORIGINAL FINANCIAL ASSISTANCE PROVISION (SEE SECTION 704(c) OF U.S.PUBLIC LAW 94-241, 90 STAT. 263) IS AN INFLATIONARY ADJUSTMENT FACTOR. WHILE IT IS TRUE THAT WE ARE TWO PARTIES TO AN AGREEMENT, I DO NOT BELIEVE THAT WE SHOULD BE CONSIDERED AS TRUE ADVERSARIES, WHO TRY TO MAXIMIZE THE

ADVANTAGE FOR THEIR SIDE ONLY. THIS AGREEMENT SHOULD BE CONSISTENT WITH ONE OF THE MAJOR PREMISES OF THE COVENANT TO CREATE A COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS IN POLITICAL UNION WITH THE UNITED STATES, P.L. 94-241, 90 STAT.263, WHICH WAS TO RAISE THE STANDARD OF LIVING OF THE PEOPLE OF THE NMI TO ONE COMPARABLE TO THAT OF RESIDENTS OF THE FIFTY STATES. THEREFORE, IN ORDER TO FULFILL THAT PROMISE, THE FINANCIAL ASSISTANCE OF THE NMI SHOULD NOT BE ILLUSORY, WHICH IT WILL BE, IF YOU ALLOW IT TO BE ERODED AWAY BY INFLATION.

FURTHERMORE, AN ISSUE WHICH HAS ASSUMED CONSIDERABLE IMPORTANCE IN THE NMI RECENTLY, IS THAT OF OUR GOVERNMENT DEFICIT. VARIOUS SOURCES PLACE THIS AMOUNT AT ANYWHERE FROM 13 TO 30 MILLION DOLLARS. IF THE INFLATIONARY FACTOR WERE INCLUDED IN THE AGREEMENT, WE COULD APPROPRIATE THAT MONEY FOR LIQUIDATION OF THE DEFICIT. OUR CONCERN FOR THIS ISSUE IS GENUINE AND WE HAVE ALSO CORRESPONDED RECENTLY WITH THE ASSISTANT SECRETARY OF THE DEPARTMENT OF THE INTERIOR FOR THE OFFICE OF TERRITORIAL AND INTERNATIONAL AFFAIRS AND ASKED FOR HIS ASSISTANCE IN TRYING TO FORMULATE POSSIBLE SOLUTIONS TO THIS PROBLEM.

IN ADDITION, WE, NOT UNLIKE THE U.S. CONGRESS, ARE SENSATIVE TO THE ISSUE THAT U.S. FUNDS ARE BEING CHANNELED INTO FOREIGN COMPANIES WHICH DO NOT NECESSARILY CONTRIBUTE TO THE U.S. ECONOMY. WE HAVE PASSED LEGISLATION IN THE NMI HOUSE OF

REPRESENTATIVES WHICH WOULD GIVE DOMESTIC NMI OR U.S. COMPANIES PREFERENCES ON NMI GOVERNMENT CONTRACTS. (SEE ATTACHED EXHIBITS 2 AND 3). HOWEVER, IF YOU ALSO LOOK AT THE MAP ATTACHED AS EXHIBIT 4, YOU WILL OBSERVE THE GREAT DISTANCES WHICH SEPARATE US EVEN FROM THE STATE OF HAWAII AND OUR CLOSE PROXIMITY TO ASIA AND JAPAN. U.S COMPANIES WILL ALWAYS SUBMIT HIGHER BIDS ON CONTRACTS, TO OFFSET THE COSTS NECESSITATED BY THESE DISTANCES. THUS, IN ORDER FOR OUR GOVERNMENT TO OBTAIN THE MAXIMUM BENEFIT FROM THIS FINANCIAL AID WE WOULD BE COMPELLED TO CHOOSE THE LOWEST BIDDER. HOWEVER, IF THE INFLATIONARY FACTOR IS INCLUDED IN THE AGREEMENT, WE COULD STILL ACHIEVE THE DESIRED RESULTS AND AFFORD A PREFERENCE TO DOMESTIC/U.S. COMPANIES.

CONCLUSION

IN CLOSING I WOULD EMPHASIZE THAT THE COVENANT, WHICH ESTABLISHES THE RELATIONSHIP BETWEEN OUR TWO GOVERNMENTS, RECOGNIZES THAT WE HAVE BEEN CONQUERED AND DOMINATED FOR MANY CENTURIES BY VARIOUS FOREIGN POWERS AND THIS NEW RELATIONSHIP WITH THE UNITED STATES WILL BE DIFFERENT AND RESPECT OUR RIGHT TO SELF-GOVERNMENT. YET I DO NOT BELIEVE THE AGREEMENT AND CONSEQUENTLY S.J.RES. 192 WERE DRAFTED WITH THIS GUIDING PRINCIPLE IN MIND. THIS AGREEMENT ATTEMPTS TO PROLONG THE SUPERVISORY ROLE OF THE DEPARTMENT OF THE INTERIOR WHICH IT EXERCISED AND CONTINUES TO EXERCISE UNDER ITS ADMINISTRATION OF

THE TRUST TERRITORY OF THE PACIFIC ISLANDS. SINCE THIS CONGRESS IS BEING ASKED TO RATIFY AND APPROPRIATE THE FUNDING FOR THIS AGREEMENT, WE WILL GLADLY REMAIN ACCOUNTABLE TO YOU FOR THE WAY IN WHICH IT IS SPENT. WE ASK YOU TO CONTINUE THE INFLATIONARY FACTOR, IN ORDER THAT WE MAY PROVIDE COMPETITIVE PREFERENCE TO U.S. COMPANIES AND ALSO ACHIEVE THE KIND OF REAL INFRASTRUCTURE DEVELOPMENT WHICH WILL SUPPORT OUR DEVELOPING ECONOMY AND PROVIDE EVERYDAY NECESSITIES, SUCH AS POTABLE WATER, TO OUR PEOPLE.

WHILE I RECOGNIZE THE GREAT DISPARITY IN ECONOMIC AND POLITICAL POWER BETWEEN OUR TWO GOVERNMENTS, ALL POLITICAL LEADERS ACCORD EACH OTHER A CERTAIN MUTUAL RESPECT WHICH TRANSCENDS SUCH LIMITATIONS. IT IS BASED ON THAT MUTUAL RESPECT THAT I ASK YOU TO EXAMINE THE AREAS I HAVE NOTED AND MAKE THE AMENDMENTS WHICH ARE WARRANTED.

AN ACT

To amend the definition of Capital Improvement Project, 1 CMC §7103(g), and for other purposes.

BE IT ENACTED BY THE FOURTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

Section 1. Legislative Intent. It is the intent of the legislature to restrict expenditure of capital improvement funds from use for general purpose operating equipment, thereby increasing funds available for more qualified projects.

Section 2. §7103(g) of Title 1 of the Commonwealth Code is amended as follows:

"(g) "Capital Improvement Project" means:

(1) Any construction, renovation, or major reconstruction on the real property of the Commonwealth for any permanent physical facility or public works installation, including architecture and engineering and other construction and planning studies, together with any acquisition of any interest in land; or

(2) Any physical improvement which has an estimated useful life longer than one year and is made to a leased property or to an occupied property owned by another government entity.

Exhibit 1

PUBLIC LAW NO. 4-46

SENATE BILL NO. [illegible]

Section 2. Effective Date. This Act shall take effect October 1, 1985 and upon approval by the Governor or upon its becoming law without such approval.

PONCIANO (PONCE) C. [illegible]
PRESIDENT OF THE SENATE

[illegible]
SPEAKER
HOUSE OF REPRESENTATIVES

ATTEST:

[illegible]
SENATE LEGISLATIVE SECRETARY

Daniel Quitugua
DANIEL C. QUITUGUA
CHIEF CLERK
HOUSE OF REPRESENTATIVES

Mar 1, 1985.

PEDRO P. TENORIO
GOVERNOR
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

FOURTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE HOUSE BILL NO. 249

SIXTH REGULAR SESSION, 1985

S.G.O. Comm.

A BILL FOR AN ACT

To enact a Commonwealth Procurement Act of 1985, to add a new Division 10 - Public Procurement to Title 1 of the Commonwealth Code, and for other purposes.

BE IT ENACTED BY THE NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

Section 1. Amendment. A new Division 10 is added to Title 1 of the Commonwealth Code to read as follows:

"Division 10. Public Procurement.

CHAPTER 1 - GENERAL PROVISIONS

Article 1 - General

Section 10111. Short Title and Purposes.

(a) Interpretation. This act shall be construed and applied to promote its underlying purposes and policies.

(b) Purposes and Policies. The underlying purposes and policies of this act are:

(1) to provide for increased public confidence in the procedures followed in public procurement;

(2) to insure the fair and equitable treatment of all persons who deal with the procurement system of the Commonwealth;

(3) to provide increased economy in Commonwealth procurement activities and to maximize to the fullest extent practicable the purchasing value of public funds;

(4) to foster effective broad-based competition

Exhibit Z

by the Governor shall review current statements together with those that may be submitted by other firms in response to the announcement. The Selection Committee shall be joined by the official with expenditure authority or at least one representative from the government agency contracting the work. The Selection Committee shall conduct discussions with at least three of the firms regarding the contract requirements and technical approach and shall select therefrom, in order of preference, no less than three firms determined to be the most highly qualified to perform the services required. The Selection Committee shall keep a written summary of its discussions.

(d) Negotiation. The Selection Committee shall negotiate a contract with the highest qualified architect-engineer or surveying firm at a price determined to be fair and reasonable to the government. If a fair and reasonable price cannot be negotiated, negotiations shall be terminated and negotiations shall be undertaken with the second highest qualified firm. If a fair and reasonable price cannot be negotiated with any of the firms, then the Selection Committee shall select additional firms in order of competence and qualifications and continue negotiations until a fair and reasonable price is agreed upon. The Selection Committee shall keep a written record summarizing its negotiations. The record shall be public after a contract is executed.

Article 3. "Commonwealth Contractor Preference Act"

Section 10421. Short Title. This Article 3 may be cited as the Commonwealth Contractor Preference Act of 1985.

Section 10422. Purpose. The purpose of this article is to establish a preference for Commonwealth Contractors in the award of bids for capital improvement projects and other construction projects financed by the Commonwealth.

Section 10423. Definitions. As used in this article:

(a) "Commonwealth Contractor" means a contractor who meets and certifies under penalty of perjury that it meets the following qualifications:

(1) (A) If a sole proprietorship, the contractor shall be owned by a citizen of the Trust Territory, United States, or a legally admitted permanent resident alien;

(B) If a partnership, the contractor shall be owned by citizens of the Trust Territory, United States, or lawfully admitted permanent resident aliens, or corporations incorporated in the Commonwealth, United States, or in a U.S. Territory or possession if not less than 75% of the ultimate ownership interest in such corporations is owned by citizens of the Trust Territory, United States, or lawfully admitted permanent resident aliens; and

[illegible] a corporation, the contractor shall be incorporated in the Commonwealth, United States, or in a Trust Territory or possession and not less than seventy-five percent (75%) of the ultimate ownership interest shall be owned by citizens of the Trust Territory, United States, or lawfully admitted permanent resident aliens.

(2) The contractor shall have a valid Commonwealth business license and shall have filed all tax returns

that it is obligated to have filed to the Commonwealth, United States, and to a U.S. Territory or possession and to any political subdivision thereof for all previous years of the contractor's existence and the contractor shall not be delinquent in the payment of any of its tax obligations or payments. A contractor is not considered to be delinquent in the payment of taxes pursuant to this Section if the contractor is contesting the imposition of a tax either administratively or judically;

(3) A contractor shall employ resident workers in not less than eighty percent (80%) of the contractor's executive, management and supervisory positions;

(4) A contractor shall employ resident workers in not less than ten percent (10%) of its full-time equivalent employment positions within the Commonwealth. A resident worker is defined in 3 CMC Section 4412(j);

(5) A contractor shall pay at least ten percent (10%) of its total payroll within the Commonwealth to its resident workers. A contractor shall pay in United States dollars within the Commonwealth one hundred percent of its payroll to its workers. A contractor shall not make deductions from a worker's paycheck for the purpose of assisting the worker in repatriating funds to governments, businesses, or persons located outside the Commonwealth.

(b) "Ultimate Ownership Interest" means, in the case of corporations owned by the corporations, the ownership interest of the ultimate noncorporate shareholders of the owning corporations.

Section 10424. Preference Given to Commonwealth Contractors.

(a) Every construction or architect-engineer services contract funded by capital improvement project funds or awarded otherwise by bid shall be awarded by the Commonwealth to a Commonwealth Contractor, unless a contractor who is not a Commonwealth Contractor is equally qualified and submits a bid which is 35% lower than that of the lowest responsive and responsible bid of a Commonwealth Contractor. The contracting officer of the agency or government corporation which is responsible for award of the contract shall ensure that the award of the contract to a contractor who is not a Commonwealth Contractor shall not in any way be injurious to the interest of the Commonwealth.

(b) Upon Certification by the Attorney General that this Section is preempted by applicable federal law with respect to a particular project, a contracting officer shall disregard the requirements of subsection (a) of this section.

Section 10425. Resident Worker Employment Required. No contractor shall be awarded a government contract unless it certifies that it will comply with the requirements of Section 10423(a)(4) and (5).

CHAPTER 5. PROTESTS AND DISPUTES

Article 1 - Bid Protests and Appeals

Section 10511. Protests to the Chief.

(a) General.

(1) Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of a contract may protest to

FOURTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE HOUSE BILL NO. 15

FIRST REGULAR SESSION, 1984

R&D COMM

A BILL FOR AN ACT

To require the awarding of all government construction contracts to firms who hire at least 30 percent bona fide residents of the Commonwealth.

BE IT ENACTED BY THE FOURTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

Section 1. Purpose. It is the purpose of this Act to increase the employment of local workers in the construction industry. The legality of this action has recently been upheld in White v. Massachusetts Council of Construction Employers, Inc., 460 U.S. ______, 103 S. Ct. 1042, 75 L.Ed. 2d 1 (February 28, 1983). In the White case, the United States Supreme Court upheld an executive order of the mayor of Boston which required that all construction projects funded by the city be performed by a work force consisting of at least 50 percent bona fide residents of the city of Boston. The Legislature hereby finds that the Commonwealth Government should take the same action as the city of Boston has taken.

Section 2. Precondition for the Award of a Construction Contract. The Commonwealth Government or any of its agencies or public corporations shall not award a construction contract to any construction business whose employees are more than 70 percent nonresident workers or persons who are not bona fide residents of the Commonwealth of the Northern Mariana Islands.

Section 3. Waivers. The Governor may waive the requirement of Section 2 for good cause. In the event the Governor waives the requirement of Section 2, he shall communicate his reasons for doing so promptly to the presiding officers of the legislature.

Section 4. Effective Date. This Act shall take effect upon its approval by the Governor, or upon its becoming law without such approval.

Exhibit 3

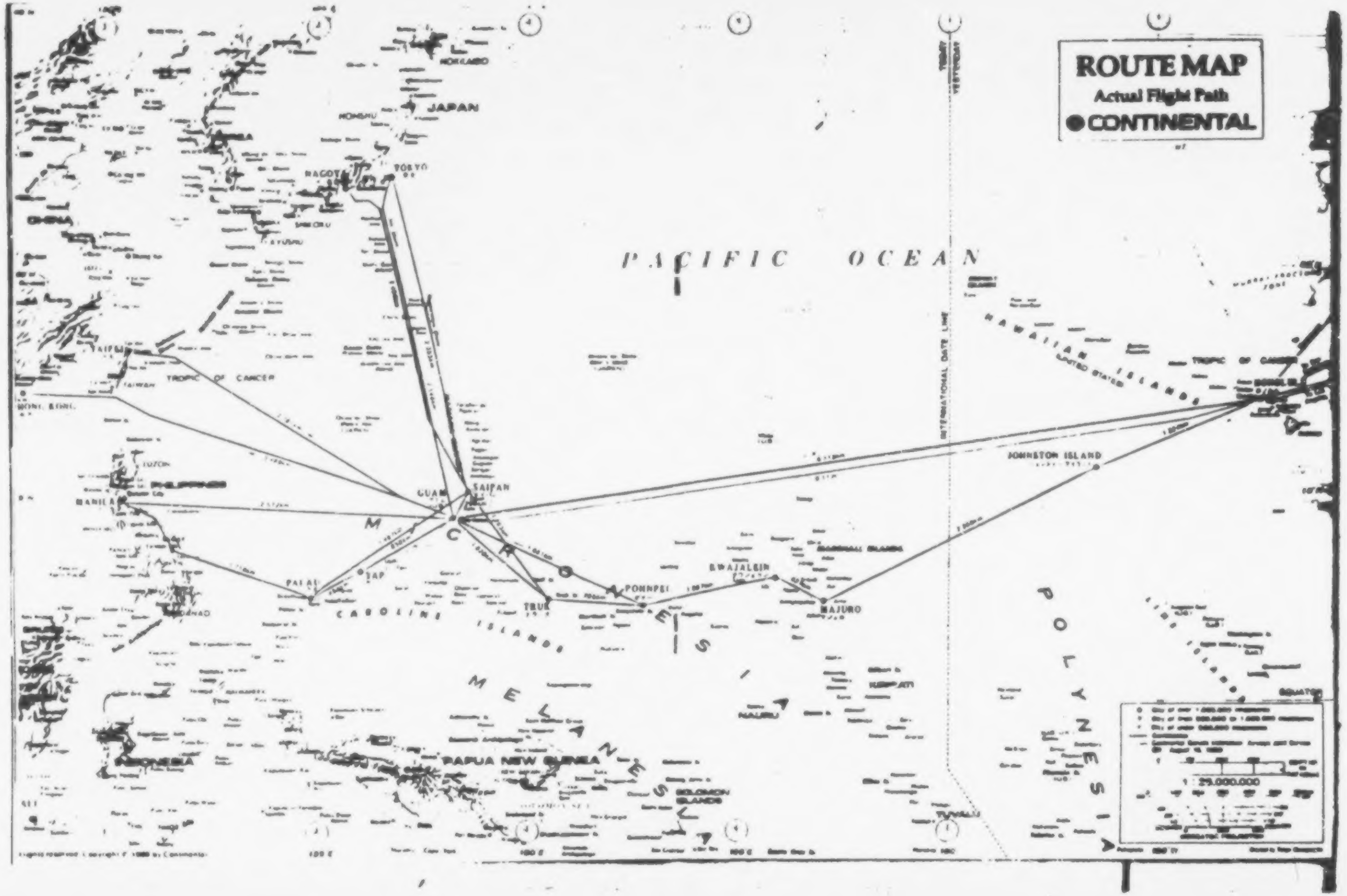
Date: 1/31/84

Introduced by: ______
Rep. Juan B. Tudela

Rep. Pedro R. Guerrero
(Pa)

Rep. Pedro T. Nakatsukasa

Exhibit 4


ROUTE MAP
Actual Flight Path
● CONTINENTAL
JAPAN
HOKKAIDO
HONSHU
TOKYO
NAGOYA
SHIKOKU
KYUSHU
CHINA
TAIPEI
TAIWAN
TROPIC OF CANCER
HONG KONG
LUZON
PHILIPPINES
MANILA
MINDANAO
GUAM
SAIPAN
PALAU
YAP
TRUK
PONNPEI
KWAJALEIN
MAJURO
MARSHALL ISLANDS
CAROLINE ISLANDS
JOHNSTON ISLAND
PACIFIC OCEAN
HAWAIIAN ISLANDS
UNITED STATES
HONOLULU
INTERNATIONAL DATE LINE
MICRONESIA
MELANESIA
POLYNESIA
NAURU
KIRIBATI
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